

PROJECT NO. 24640

ISSUES RELATED TO § PUBLIC UTILITY COMMISSION
ESTABLISHMENT OF, AND ANNUAL §
REVISIONS TO, ACCESS LINE RATES § OF TEXAS
FOR TEXAS MUNICIPALITIES §

ORDER

This Order establishes a new allocation ratio and new fee per access line rates for the City of Weslaco (City). The City has elected to set a new allocation pursuant to P.U.C. SUBST. R. 26.467(h),¹ thus leading to a modification in its maximum rates. Accordingly, the new allocation ratio and new fee per access line rates for the City are shown in Exhibit A, attached hereto. These rates shall be applied prospectively from January 1, 2006.

I. Introduction

Pursuant to TEX. LOC. GOV'T CODE § 283.055(b),² the Public Utility Commission (Commission) is required to establish: (1) rates per access line by category for each municipality; and (2) the statewide average of those rates per access line by category for each Certificated Telecommunications Provider (CTP). Both of these requirements were met when the Commission adopted municipal rates and CTP statewide averages.³ CTPs were required to implement the Commission-established final rates no later than June 1, 2000.

Pursuant to P.U.C. SUBST. R. 26.467(h), Texas cities are allowed to annually revise their access line rates. The rates may be revised either by changing the allocation once every 24 months, or by annually adjusting (increasing or decreasing) access line rates to be at or below the Commission-established maximum rates. A municipality may also choose to exempt lifeline customers or beneficiaries of similar low income assistance programs from payment of access

¹ P.U.C. SUBST. R. 26.467, *Rates, Allocation, Compensation, Adjustments and Reporting*.

² TEX. LOCAL GOV'T CODE ANN., added by Acts 1999, 76th Leg. Ch. 840, § 1, eff. Sept. 1, 1999 (hereinafter Code).

³ *Implementation of HB 1777*, Project No. 20935, Order (May 3, 2000).

line fees. On October 23, 2001, the Commission delegated authority to Commission Staff to administratively approve requests by municipalities for revisions in access line rates pursuant to P.U.C. SUBST. R. 26.467(h), provided such revised rates are equal to or below the Commission approved maximum-access line rates.⁴

The City of Weslaco requested a change to its allocation ratio, which changes the City's maximum access line rates. Consistent with P.U.C. SUBST. R. 26.467(h)(2) a municipality may petition a modification of its own allocation no later than September 1 of each calendar year and not more than once every 24 months by notifying the Commission and all affected CTPs in the municipality. In its notification to the Commission and the CTPs, the municipality shall designate the allocation that it wishes to have the Commission apply in the next calendar year.

Because a change in its allocation ratio would change the maximum rates for the City, the new rates are being approved by the Commission in this Order. The City has not changed its allocation pursuant to P.U.C. SUBST. R. 26.467(h) in the last 24 months. The City requested that its current allocation rate of 65%; 30%; and 5% be changed to the Commission default allocation ratio of 1:2.3:3.5. The City's preferred rates, calculated pursuant to its revised allocation formula shall be applied prospectively and shall be implemented by CTPs no later than January 1, 2006.

II. Findings of Fact

1. The purpose of Chapter 283 of the Code is to establish a uniform method for compensating municipalities for the use of a public right-of-way by CTPs that: (a) is administratively simple for municipalities and telecommunications providers; (b) is consistent with state and federal law; (c) is competitively neutral; (d) is nondiscriminatory; (e) is consistent with the burdens on municipalities created by the incursion of certificated telecommunications providers into a public right-of-way; and (f) provides fair and reasonable compensation for the use of a public right-of-way.

⁴ Order *Delegating Authority to Staff to Approve Revised Access Line Rates and Lifeline Exemption Status Changes*, Project No. 24640 (Oct. 23, 2001).

2. Section 283.055(d) of the Code requires that a municipality that wants to effect an allocation of the base amount over specific access line categories to be assessed rates shall notify the Commission of the desired allocation. Participating municipalities included their requested allocation as part of the original base amount filings. Pursuant to § 283.055(d), the Commission developed a default allocation of 1:2.3:3.5 that is reflected in P.U.C. SUBST. R. 26.467(e). This default allocation represents an average of all allocation ratios filed by participating municipalities.
3. The Commission finds that allocations resulting in rates of more than \$2 for Category 1, more than \$4 for Category 2, or more than \$10 for Category 3 appear high. Municipalities are urged, but not required, to consider allocation formulas resulting in rates below these levels.
4. P.U.C. SUBST. R. 26.467(c) sets out the formula the Commission shall use to develop access line rates, by category, as follows:

B =	Total base amount for 1998.
A1 =	Allocation by percentage to Category 1 access lines.
A2 =	Allocation by percentage to Category 2 access lines.
A3 =	Allocation by percentage to Category 3 access lines.
L1 =	Number of access lines in Category 1.
L2 =	Number of access lines in Category 2.
L3 =	Number of access lines in Category 3.
R1 =	Fee per access line rate for Category 1.
R2 =	Fee per access line rate for Category 2.
R3 =	Fee per access line rate for Category 3.
R1 =	$(A1*B)/L1$
R2 =	$(A2*B)/L2$
R3 =	$(A3*B)/L3$
B =	$(L1*R1) + (L2*R2) + (L3*R3)$

5. Pursuant to P.U.C. SUBST. R. 26.467(h)(2) a municipality may petition a modification of its own allocation no later than September 1 of each calendar year and not more than once every 24 months by notifying the Commission and all affected CTPs in the municipality. In its notification to the Commission and the CTPs, the municipality is

required to designate the allocation that it wishes to have the Commission apply in the next calendar year. The City petitioned such a modification to its allocation and notified the Commission and all affected CTPs. The City requested that its allocation rate be modified to reflect the Commission default allocation ratio of 1:2.3:3.5.

6. The City has not requested such a modification to its allocation within the last 24 months.
7. The City indicated that it intends to adopt its adjusted maximum access line rates as its city-preferred rates.

III. Conclusions of Law

1. The Commission has jurisdiction over this matter under the Code §§ 283.005, 283.051, 283.055, and 283.058, as well as §§ 14.001, 14.002, 14.003, and 52.002 of the Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-64.158 (Vernon 1998 & Supp. 2005).
2. Section 283.055(b) of the Code requires the Commission to establish (a) for each municipality, rates per access line by category; and (b) the statewide average of those rates per access line by category. Consistent with § 283.055(c), when applied to the total number of access lines by category in the municipality, the Commission's rates shall be equal to the base amount. The fee per access line maximum rates under the new allocation formula herein established by the Commission are equal to the City's base amount when applied to the total number of access lines by category in that municipality.
3. The fee per access line maximum rates and allocation ratio, as established by the Commission and shown on Exhibit A attached to this Order, are consistent with and meet the requirements of Chapter 283 and the Commission's rules.

IV. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following Orders:

1. The allocation ratio and fee per access line maximum rates for the City of Weslaco shall be as shown on Exhibit A, effective January 1, 2006.
2. CTPs shall implement the access line rates as shown on Exhibit A for the City of Weslaco no later than January 1, 2006.
3. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS on the ____ day of October 2005.

PUBLIC UTILITY COMMISSION OF TEXAS

PAUL HUDSON, CHAIRMAN

JULIE PARSLEY, COMMISSIONER

BARRY T. SMITHERMAN, COMMISSIONER

EXHIBIT A
REVISED ALLOCATION AND ACCESS LINE RATES FOR THE CITY OF
WESLACO

	2006 Maximum Rates (City-Preferred)			Revised Allocation		
	Residential	Non-Residential	Point-to-Point	Residential	Non-Residential	Point-to-Point
City of Weslaco	\$0.71	\$1.62	\$2.47	1	2.3	3.5