

PROJECT NO. 23956

ACCESS LINE RATES FOR TEXAS	§	PUBLIC UTILITY COMMISSION
CITIES PURSUANT TO LINE COUNT	§	
ERRORS FROM CERTIFICATED	§	OF TEXAS
TELECOMMUNICATION	§	
PROVIDERS (CTPs)	§	

**ORDER ESTABLISHING REVISED ACCESS LINE
RATES FOR VILLAGE OF WIMBERLY AND CITY OF POWELL**

This Order establishes maximum fee per access line rates for two cities: the Village of Wimberly and the City of Powell. The maximum fee per access line rates for these municipalities are shown in Exhibit A, attached hereto. These rates shall be applied prospectively.

I. Introduction

Under § 283.055(b), Local Government Code, 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 initially adopted municipal rates and CTP statewide averages.¹

In January of 2001, Verizon Southwest (Verizon) voluntarily disclosed to the Commission that the initial line counts, submitted previously under the name of GTE Corporation, were erroneous and Verizon filed an amended access line count with the Commission. Among the cities affected by Verizon's revised line counts were the City of Powell and the Village of Wimberly. At the May 8, 2001, Open Meeting, the Commission approved revised rates for approximately 600 cities including the City of Powell and the Village of Wimberly.

Subsequent to the Commission approval of the revised rates, Verizon notified the Commission of an error on Verizon's part in submitting the revised line counts for the

¹ *Implementation of House Bill 1777, Project No. 20935, Order (May 3, 2000).*

City of Powell and the Village of Wimberly. On July 10, 2001, Verizon corrected the access line count for these two cities. In its notice to the Commission, Verizon requested that new access line rates be established for the City of Powell and the Village of Wimberly based on the corrected line count information.

This Order establishes the maximum fee per access line rates for two municipalities: the Village of Wimberly and the City of Powell. The base amount for the Village of Wimberly was calculated using the statewide average rates pursuant to Chapter 283, Local Government Code, and P.U.C. SUBST. R. § 26.465, *Calculation and Reporting of a Municipality's Base Amount*. The base amount of City of Powell was determined using a city-specified amount. These two municipalities elected to use the Commission-established default allocation, pursuant to Chapter 283, Local Government Code, and P.U.C. SUBST. R. § 26.467, *Rates, Allocation, Compensation, Adjustments and Reporting*. These two municipalities have also elected to impose the maximum rates as shown in Exhibit A.

II. Findings of Fact

1. Section 283.001(c), Local Government Code, includes a legislative finding that the purpose of Chapter 283, Local Government Code, is to establish a uniform method for compensating municipalities for the use of a public right-of-way by CTPs that: (1) is administratively simple for municipalities and telecommunications providers; (2) is consistent with state and federal law; (3) is competitively neutral; (4) is nondiscriminatory; (5) is consistent with the burdens on municipalities created by the incursion of certificated telecommunications providers into a public right-of-way; and (6) provides fair and reasonable compensation for the use of a public right-of-way.
2. Section 283.051(a), Local Government Code, provides that a CTP that provides telecommunications services within a municipality is required to pay as compensation to a municipality for use of the public rights-of-way in the

- municipality only the amount determined by the Commission under § 283.055, Local Government Code.
3. Section 283.051(c), Local Government Code, provides that fees imposed under Chapter 283, Local Government Code, constitute “a municipal fee” or “municipal fees” within the meaning of PURA § § 51.009 and 54.206.
 4. Section 283.053(b), Local Government Code, provides that the base amount for a municipality is the total amount of revenue received by the municipality in franchise, license, permit, and application fees and in-kind services or facilities from CTPs in 1998 within the boundaries of the municipality.
 5. Section 283.055(b), Local Government Code, requires that the Commission must establish: (1) for each municipality, rates per access line by category; and (2) the statewide average of those rates per access line by category. Consistent with § 283.055(c), Local Government Code, 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.
 6. Section 283.055(d), Local Government Code, requires that a municipality that wants to effect an allocation of the base amount over specific access line categories to be assessed rates must notify the Commission of the desired allocation. Municipalities included their requested allocation as part of the original base amount filings. Section 283.055(d), Local Government Code, requires the Commission to establish an allocation of the base amount over the categories of access lines if a municipality did not file its proposed allocation by December 1, 1999. The Commission developed a default allocation of 1:2.3:3.5 in P.U.C. SUBST. R. 26.467(e). This default allocation represents an average of all allocation ratios filed by municipalities.

7. P.U.C. SUBST. R. 26.465(g)(2)(A)(i) required all CTPs to file an access line count reflecting lines in place as of December 31, 1998, no later than January 24, 2000. If a CTP could not file a 1998 access line count, that CTP could request a good cause exception and file the most recent line count available for December, 1999. Under P.U.C. SUBST. R. 26.467(d), where a CTP does not provide an actual 1998 access line count, the Commission shall use the CTP's 1999 access line count to derive an estimated 1998 access line count, using estimated statewide growth rate figures.
8. 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 =	$(L1*R1) + (L2*R2) + (L3*R3)$

9. The maximum rates established by the Commission for the City of Powell and the Village of Wimberly at the May, 8, 2001 Open Meeting were in error due to incorrect line counts submitted by Verizon. Subsequent to the Commission approval of the revised rates, Verizon notified the Commission of an error on

Verizon's part in submitting the revised line counts for the City of Powell and the Village of Wimberly. On July 10, 2001, Verizon corrected the access line count for these two cities. In its notice to the Commission, Verizon requested that new access line rates be established for the City of Powell and the Village of Wimberly based on the corrected line count information. Accordingly, the access line rates for the City of Powell and the Village of Wimberly have been recalculated. Both these municipalities elected to use the Commission-established default allocation.

10. The Commission has established maximum rates for these two municipalities using the formula established in P.U.C. SUBST. R. 26.467(c), as reflected in Exhibit A.
11. The City of Powell and the Village of Wimberly have notified the Commission of their desire to impose the maximum rates.

III. Conclusions of Law

1. The Commission has jurisdiction of this matter under §§ 283.005, 283.051, 283.055, and 283.058, Local Government Code, and under § § 14.001, 14.002, 14.003 and 52.002 of the Public Utility Regulatory Act (PURA), codified at TEX. UTIL. CODE ANN. § § 11.001 – 64.158 (Vernon 1998 & Supp. 2000).
2. The fee per access line rates established by the Commission, when applied to the total number of access lines by category in each affected municipality, are equal to that municipality's base amount.
3. The fee per access line rates, as established by the Commission, accepted by the municipalities, and shown in Exhibit A, are consistent with, and meet the

requirements of, Chapter 283, Local Government Code, 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 maximum fee per access line rates shall be as shown on Exhibit A for the listed municipalities.
2. CTPs shall implement the maximum fee per access line rates as shown in Exhibit A for the listed municipalities, no later than November 24, 2001.
3. All other relief requested, unless granted herein, is denied.

SIGNED AT AUSTIN, TEXAS the _____ day of August, 2001.

PUBLIC UTILITY COMMISSION OF TEXAS

MAX YZAGUIRRE, CHAIRMAN

BRETT A. PERLMAN, COMMISSIONER

REBECCA KLEIN, COMMISSIONER

Exhibit A

Municipality	Category 1 Residential and Burglar Alarms	Category 2 Non- Residential	Category 3 Point-To-Point
City of Powell	\$0.04	\$0.09	\$0.14
Village of Wimberly	\$1.38	\$3.16	\$4.81