

PROJECT NO. 24640

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

**ORDER APPROVING YEAR-END REVISIONS TO ACCESS LINE RATES FOR
THE CITY OF SUGAR LAND**

I. Introduction

This Order establishes a new allocation ratio and new fee per access line rates for the City of Sugar Land (City). The City has elected to set a new allocation pursuant to P.U.C. SUBST. R. 26.467(h), 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. Certificated Telecommunications Providers (CTPs) shall apply these rates prospectively from January 1, 2004.

II. Background

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 CTP. Both of these requirements were met when the Commission adopted municipal rates and CTP statewide averages¹. 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),² Texas cities are allowed to annually revise their access line rates. The rates may be revised either by changing the allocation once every twenty-four months, or by annually adjusting (increasing or decreasing) access line rates to be at or below the Commission-established maximum rates. A

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

² P.U.C. SUBST. R. 26.467, relating to *Rates, Allocation, Compensation, Adjustments and Reporting*.

municipality may also choose to exempt lifeline customers or beneficiaries of similar low income assistance programs from payment of access 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.³ Commission Staff issued an Order on October 23, 2003 for those Cities that revised their rates at or below the Commission-approved maximum access line rate.⁴

The City of Sugar Land has requested a change to its allocation ratio, which changes the city's maximum access line rates. P.U.C. SUBST. R. 26.467(h)(2) states that 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.

Hence, the rate for the City is 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 twenty-four months. 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, 2004.

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

³ See Order Delegating Authority to Staff to Approve Revised Access Line Rates and Lifeline Exemption Status Changes, Project No. 24640 (Oct. 23, 2001).

⁴ See Order Approving Year-End Revisions to Access Line Rates Pursuant to P.U.C. Subst. R. 26.467(h), Project No. 24640 (Oct. 22, 2003).

- 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 283.055(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.
 5. 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.

6. 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.
7. 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 =	$(L1*R1) + (L2*R2) + (L3*R3)$

8. P.U.C. SUBST. R. 26.467(h)(2) states that 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.

9. The City of Sugar Land has petitioned such a modification to its allocation and notified the Commission and all affected CTPs. The City has not requested such a modification to its allocation within the last 24 months.
10. The City of Sugar Land has indicated that it intends to adopt its adjusted maximum access line rates as its city-preferred rates.

IV. Conclusions of Law

1. The Commission has jurisdiction of this matter under §§ 283.005, 283.055, and 283.058, Local Government Code, and under § § 14.001, 14.002, 14.003, 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 maximum rates under the new allocation formula herein established by the Commission are equal to the City of Sugar Land'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 in Exhibit A, are consistent with, and meet the requirements of Chapter 283, Local Government Code, and the Commission's rules.

V. 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 Sugar Land shall be as shown in Exhibit A, effective January 1, 2004.
2. CTPs shall implement these access line rates no later than January 1, 2004.
3. All other relief requested, unless granted herein, is denied.

SIGNED AT AUSTIN, TEXAS the _____ day of November, 2003.

PUBLIC UTILITY COMMISSION OF TEXAS

REBECCA KLEIN, CHAIRMAN

JULIE PARSLEY, COMMISSIONER

PAUL HUDSON, COMMISSIONER

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

	2004 Maximum Rates (City-Preferred)			Revised Allocation		
	Residential	Non-Residential	Point-to-Point	Residential	Non-Residential	Point-to-Point
City of Sugar Land	\$0.57	\$1.29	\$3.34	1.5	3.45	8.96