

PROJECT NO. 35495

RULEMAKING TO AMEND P.U.C.	§	PUBLIC UTILITY COMMISSION
SUBSTANTIVE RULE §26.127	§	
REGARDING 811 ABBREVIATED	§	OF TEXAS
DIALING CODE	§	

**ORDER ADOPTING AMENDMENT TO §26.127
AS APPROVED AT THE JULY 1, 2010 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §26.127, relating to Abbreviated Dialing Codes with no changes to the proposed text as published in the April 16, 2010 issue of the *Texas Register* (35 TexReg 2918). The amendment addresses the responsibility of the Texas Underground Facility Notification Corporation and limitations of liability by telecommunications providers whose 811 service is regulated by the commission. The amendment is adopted under Project Number 35495.

The commission received no comments on the proposed amendment.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2009) (PURA), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and PURA §§51.001-65.252, which grant the commission jurisdiction over telecommunications providers.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §§51.001-65.252.

§26.127. Abbreviated Dialing Codes.

- (a) **Code assignments.** The following abbreviated dialing codes may be used in Texas:
- (1) 211 -- Community Information and Referral Services;
 - (2) 311 -- Non-Emergency Governmental Service;
 - (3) 411 --
 - (A) Directory Assistance; and
 - (B) Directory Assistance Call Completion;
 - (4) 511 -- Traffic and Transportation Information;
 - (5) 611 -- Repair Service;
 - (6) 711 -- Telecommunications Relay Service;
 - (7) 811 -- One Call Excavation Notification; and
 - (8) 911 -- Emergency Service.
- (b) **Use only as directed.** A certificated telecommunications utility (CTU) within the State of Texas may assign or use N11 dialing codes only as directed by the commission.
- (c) **Limitations.** The following limitations apply to a CTU's use of N11 dialing codes for internal business and testing purposes:
- (1) use may not interfere with the assignment of such numbers by the FCC and the North American Numbering Plan (NANP); and
 - (2) use of an N11 dialing code must be discontinued on short notice if the number is reassigned on a statewide or nationwide basis.

(d) **211 service.**

(1) **Scope and purpose.** This subsection applies to the assignment, provision, and termination of 211 service. Through this subsection, the commission intends to enhance the ability of the public to access services that provide free information and referral to community resources in situations that are not immediately life-endangering, but still represent a serious but less urgent threat to basic human needs and individuals' health or welfare.

(2) **Definitions.** The following words and terms, when used in this subsection, shall have the following meanings unless the context indicates otherwise:

(A) **Alliance of Information and Referral Systems (AIRS)** -- A professional organization whose mission is to unite and serve the field and to advance the profession of information and referral as a vital means of bringing people and services together. AIRS has developed national quality standards and methods of evaluating information and referral services.

(B) **Area Information Center (AIC)** -- An entity that serves as regional coordinator for health and human services information for a specified geographical area or region.

(C) **Community resource** -- A for profit or nonprofit resource that provides health or human services in a designated geographic area.

(D) **Information and referral service** -- A service whose primary purpose is to maintain information about human service resources in the community and to link people who need assistance with appropriate service providers

and/or to supply descriptive information about the agencies or organizations which offer services.

- (E) **Selective routing** -- The feature provided with 211 service by which 211 calls are automatically routed to the 211 answering point for serving the place from which the call originates.
 - (F) **Texas Information and Referral Network (Texas I & R Network)** -- A program of the Health and Human Services Commission (HHSC) that is responsible for the development, coordination, and implementation of the statewide information and referral network.
 - (G) **211 answering point** -- An AIC that:
 - (i) provides 24 hour, seven day a week operations;
 - (ii) is assigned by HHSC the responsibility to receive 211 calls;
 - (iii) serves the area or region designated by HHSC; and
 - (iv) performs the roles and responsibilities of an AIC.
 - (H) **211 service** -- A telecommunications service provided by a CTU to a designated area information center through which the end user of a public phone system has the ability to access services providing free information and referrals regarding community service organizations.
- (3) **Role and responsibilities of the Texas Health and Human Services Commission (HHSC).**
- (A) To designate an AIC as a 211 provider for a particular geographical area;
 - (B) HHSC and the AICs educate the populace about the use of 211 service from its inception through termination;

- (C) HHSC is responsible for dispute resolution should a conflict regarding the selection of an AIC occur; and
 - (D) HHSC may terminate an AIC's designation for good cause and is responsible for ensuring prompt and efficient selection of a new AIC for continuation of service.
 - (4) **Use of the 211 system.**
 - (A) 211 calls may not be completed over the 311 or 911 networks or use the 311 or 911 databases.
 - (B) The 211 network shall not be used for commercial advertisements.
 - (5) **Privacy policy.** To preserve the privacy of callers who wish to use the 211 service anonymously, an AIC which uses Automatic Number Identification (ANI), Automatic Location Identification (ALI) service or other equivalent non-blockable information-gathering features for the provision of 211 service must establish an in-house procedure that is consistent with the AIRS national standards and the standards set forth by HHSC that allows access to the 211 service while honoring the caller's call and line-blocking preferences and/or caller anonymity.
 - (6) **Fee.** Neither an AIC nor a CTU may charge end users a fee on a per-call or per-use basis for using the 211 system.
- (e) **311 service.**
- (1) **Scope and purpose.** This subsection applies to the assignment, provision, and termination of 311 service. Through this subsection, the commission strives to strengthen the 911 system by alleviating congestion on the 911 system through the

establishment of a framework for governmental entities to implement a 311 system for non-emergency police and other governmental services.

- (2) **Definition.** The term “governmental entity” when used in this subsection means any county, municipality, emergency communication district, regional planning commission, appraisal district, or any other subdivision or district that provides, participates in the provision of, or has authority to provide fire-fighting, law enforcement, ambulance, medical, 911, or other emergency service as defined in Texas Health & Safety Code §771.001, as may be subsequently amended.
- (3) A certificated telecommunications utility must have a commission-approved application to provide 311 service.
- (4) **Requirements of application by certificated telecommunications utility.**
 - (A) Applications, tariffs, and notices filed under this subsection shall be written in plain language, shall contain sufficient detail to give customers, governmental entities, and other affected parties adequate notice of the filing, and shall conform to the requirements of §26.209 of this title (relating to New and Experimental Services) or §26.211 of this title (relating to Rate-Setting Flexibility for Services Subject to Significant Competitive Challenges), whichever is applicable.
 - (B) A CTU shall provide a copy of the text of the proposed notice to notify the public of the request for 311 service with the filing of an application for regulatory approval of the certificated telecommunications utility’s provision of 311 service.

- (C) No application for 311 service allowing the governmental entity to charge its citizens a fee on a per-call or per-use basis for using the 311 system shall be approved.
 - (D) All applications for 311 service shall include the governmental entity's plan to educate its populace about the use of 311 at the inception of 311 service and its plan to educate its populace at the termination of the governmental entity's provision of 311 service.
- (5) **Notice.** The presiding officer shall determine the appropriate level of notice to be provided and may require additional notice to the public.
- (A) The certificated telecommunications utility shall file with the commission a copy of the text of the proposed notice to notify the public of the request for 311 service and the filing of an application for regulatory approval of the certificated telecommunications utility's provision of 311 service. This copy of the proposed notice shall be filed with the commission not later than ten days after the certificated telecommunications utility receives the 311 service request; and
 - (B) The proposed notice shall include the identity of the governmental entity, the geographic area to be affected if the new 311 service is approved, and the following language: "Persons who wish to comment on this application should notify the commission by (specified date, 30 days after notice is published in the *Texas Register*). Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the Public

Utility Commission's Customer Protection Division at (512) 936-7120 or toll free at (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.”

- (6) A certificated telecommunications utility may provide 311 service only to governmental entities.
- (7) A 311 service request shall start the six-month deadline to “take any necessary steps to complete 311 calls” as required by the Federal Communications Commission's Order In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, FCC 97-51, 12 F.C.C.R. 5572 (February 19, 1997).
- (8) 311 calls shall not be completed over the 911 network or use the 911 database.
- (9) The 311 network shall not be used for commercial advertisements.
- (10) To preserve the privacy of callers who wish to use the governmental entity's non-emergency service anonymously, a certificated telecommunications utility which uses Automatic Number Identification (ANI) service, Automatic Location Identification (ALI) service or other equivalent non-blockable information-gathering features for the provision of 311 service must establish a non-abbreviated phone number that will access the same non-emergency police and governmental services as the 311 service while honoring callers' call- and line-blocking preference. When publicizing the availability of the 311 service, the governmental entity must inform the public if its 311 service has caller or number identification features, and must publicize the availability of the non-abbreviated

phone number that offers the same service with caller anonymity. When a certificated telecommunications utility uses Caller Identification (Caller ID) services or other equivalent features to provide 311 service, relevant provisions of the commission's substantive rules and of the Public Utility Regulatory Act apply.

- (11) The commission shall have the authority to limit the use of 311 abbreviated dialing codes to applications that are found to be in the public interest.
- (12) The commission shall have the authority to decide which governmental entity shall provide 311 service when there are conflicting requests for concurrent 311 service for the same geographic area, to the extent that negotiations between or among the affected governmental entities fail. The commission shall consider the following factors in determining conflicting requests for 311 service:
 - (A) the nature of the service(s), including but not limited to the proposed public education portion, to be provided by the governmental entity; and
 - (B) the potential magnitude of use of the requested 311 service (i.e., the number of residents served by the governmental entity and their potential frequency of access to the governmental agencies wishing to use the 311 service).
- (13) When termination of 311 service is desired, the certificated telecommunications utility shall file a notice of termination with the commission that contains:
 - (A) proposed notice to the affected area of the termination of 311 service; and
 - (B) the program to educate the affected public of the termination of 311 service.

- (14) The commission, after receiving the certificated telecommunications utility's proposed notice of termination of 311 service and approving the proposed notice through an administrative review, will cause the approved notice to be published in the *Texas Register*.
- (f) **811 service.**
- (1) **Scope and purpose.** This subsection applies to the assignment, provision, and termination of 811 service. Through this subsection, the commission implements the Federal Communications Commission's requirements in *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Sixth Report and Order, CC Docket No. 92-105, FCC 05-59 (Mar. 14, 2005), that designated 811 as the national abbreviated dialing code to be used by state One Call notification systems for providing advanced notice of excavation activities to underground facility operators in compliance with the Pipeline Safety Improvement Act of 2002. The commission intends to reduce the possibility of disruptions to underground facilities by implementing 811 service. Implementation of 811 service will facilitate advance notice by excavators of planned excavations to facility operators, allowing facility operators to mark and prepare their facilities before excavation.
- (2) **Authority.** Authority for One Call Excavation Notification resides with the Texas Underground Facility Notification Corporation (doing business as One Call Board of Texas and referred to herein as TUFNG) pursuant to Chapter 251 of the Texas Utilities Code.

- (3) **Customer Responsibility.** TUFNG is a customer of 811 service. Telecommunications providers whose 811 service is regulated by the commission may require TUFNG to provide 60-days written notice for any call center number additions or changes to ensure timely numbered translations by the 811 service providers.
- (4) **Limitations of liability.** Telecommunications providers whose 811 service is regulated by the commission may limit their liability for the provision of 811 service through the inclusion of liability limitations in their tariffs. Liability for gross negligence or willful misconduct shall not be limited.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that the amendment to §26.127 relating to Abbreviated Dialing Codes is hereby adopted with no changes to the text as proposed.

SIGNED AT AUSTIN, TEXAS this the 9th day of JULY 2010.

PUBLIC UTILITY COMMISSION OF TEXAS

BARRY T. SMITHERMAN, CHAIRMAN

DONNA L. NELSON, COMMISSIONER

KENNETH W. ANDERSON, JR., COMMISSIONER