

The Public Utility Commission of Texas (the commission) proposes an amendment to §26.130 relating to Selection of Telecommunications Utilities. The proposed amendment will implement the Public Utility Regulatory Act (PURA), Texas Utilities Code Annotated §§55.301 - 55.308 (Vernon 1999 Supp.). These provisions: (1) eliminate the distinction between carrier-initiated and customer-initiated changes, (2) eliminate the information package mailing (negative option) as a verification method, (3) absolve the customer of any liability for charges incurred during the first 30 days after an unauthorized telecommunications utility change, (4) prohibit deceptive or fraudulent practice, and (5) require consistency with applicable federal laws and rules. This rulemaking also addresses the related issue of preferred telecommunications utility freezes. Project Number 21419 has been assigned to this proceeding.

To assist in this rulemaking, the commission held a workshop with all interested parties at the commission's offices on November 15, 1999. Additionally, the commission requested written comments from all interested parties regarding this rulemaking. The commission carefully considered all written and verbal comments in developing the proposed amendment to §26.130. The proposed amendment:

1. Eliminates the distinction between customer-initiated and carrier-initiated change orders.
2. Requires tape recording third party verification for a change order.

3. Requires as part of third party verification, clear confirmation by the customer for authorization to change service provider.
4. Requires that an independent third party verifier not be owned or directly controlled by the telecommunications utility or its marketing agent, and have no financial incentive to confirm change orders.
5. Eliminates the information package (negative option) as a verification method.
6. Revises the Letter of Agency (LOA) language.
7. Absolves the customer of liability for charges from an unauthorized carrier incurred during the first 30 days after an unauthorized change.
8. Adds information about freezes to the customer notice.
9. Eliminates the 30-day cure period to avoid an administrative penalty.
10. Requires that freezes be offered on a nondiscriminatory basis.
11. Requires separate freeze authorization for each type of service (intraLATA and interLATA).
12. Establishes requirements for freeze information provided to customers by telecommunications utilities.
13. Requires local exchange company (LEC) verification of a freeze request by one of three methods: written and signed authorization; electronic authorization; or third party verification.
14. Establishes requirements for each verification method related to a freeze request.
15. Establishes requirements for lifting a freeze.
16. Prohibits charging customers to impose or lift a freeze.
17. Prohibits freezes for local telephone service.

18. Prohibits marketing by the LEC during the process of imposing or lifting a freeze.
19. Provides suggested language for freeze information, freeze authorization form, and freeze lift form.
20. Establishes notice requirements when acquiring customers from another telecommunications utility that will no longer provide service.
21. Includes many changes to the current rule to enhance clarity and readability.

The proposed changes to §26.130 are based on the following considerations: ensuring customer protection while fostering competition in providing telecommunications services; minimizing administrative requirements and cost; ensuring compliance with all PURA requirements; and ensuring consistency with current applicable Federal Communications Commission (FCC) rules.

Several issues surfaced during this rulemaking and are discussed below.

Informing customers about freezes

Slamming victims often indicate they wish they had been aware of the availability of freeze protection before being slammed. Customers should not have to wait until they are slammed before being informed about freezes. The proposed amendment allows telecommunications utilities to inform customers about freezes, but prescribes the content of the information. The proposed amendment allows for "education," but not "marketing." The distinction between the two is that "marketing" is aimed

at inducing behavior, whereas "education" is aimed at providing information in a neutral way so that customers can make informed decisions.

Prohibition on local telephone service freezes

Recent events have shown that local telephone service competition in Texas has great promise. However, local competition is still in its early stages, particularly for residential customers, and far behind the level of competition in the intraLATA and interLATA markets. Furthermore, local service slamming is considerably more difficult, more expensive, and more easily discovered by customers than long distance service slamming. Due to the limited value of a local service freeze and the potential for anticompetitive use, the proposed amendment prohibits freezes on local telephone service.

No customer charge for freezes

Several parties recommended that LECs be allowed to charge for implementing a freeze based on related cost. It appears that under current practice, LECs implement freezes without charge. A freeze is a basic customer protection that should be made available to customers at no charge. The proposed amendment prohibits charging customers to impose or lift a freeze.

Prohibition on marketing during freeze processing

Some parties expressed concern about incumbent local exchange companies (ILECs) marketing their services when a customer contacts the ILEC to request imposing or lifting a freeze. The LEC function of administering freezes must be completely separated from any marketing efforts to prevent anticompetitive behavior. The proposed amendment prohibits any marketing by the LEC during the processing of a request to impose or lift a freeze.

Court ordered stay of FCC liability rule changes

On December 23, 1998, the FCC issued a Second Report and Order, CC Docket Number 94-129, Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers. In this order, the FCC adopted new rules related to verification, liability, and preferred carrier freezes. On May 18, 1999, the DC Circuit Court of Appeals ordered a stay of the FCC liability rules pending further order of the court. Also, the FCC has received several Petitions for Reconsideration of the rules released in the December 1998 order.

The proposed amendment is consistent with FCC rules that are currently in effect. It is essential that changes to the current §26.130 resulting from SB86 and SB560 be implemented as soon as possible and that this rulemaking not be delayed pending the final outcome of court and FCC actions. Should subsequent federal action require further revision to §26.130, the rule can be modified at that time.

Carrier submission of freeze forms to LECs

The current FCC preferred carrier freeze rules are based on customers submitting freeze requests to the LECs and the LECs verifying the requests. The current FCC rules do not specifically address the issue of preferred carriers submitting customer freeze requests to the LECs. Several carriers have requested guidance from the FCC on this issue. The proposed amendment reflects the current FCC rules on freezes. If necessary, the proposed amendment will be revised to accommodate a final FCC ruling on this issue.

Suggested language for freeze information and forms

The FCC rules and the proposed amendment establish requirements for the content of freeze information provided to customers and for the content of freeze requests. Some parties requested that the commission develop specific language for use by carriers so that they can be assured that they comply with these requirements. National carriers expressed concern about requiring specific language since this may hinder development of nation-wide standard information and forms. The proposed amendment addresses both views by including suggested language for freeze information and forms, but allows other versions as long as they comply with the requirements in the rule.

This section contains two graphics that have been modified and three new graphics that will appear in the "Tables and Graphics" section of the *Texas Register*. Interested persons may obtain a redlined

copy of the modified graphics from the commission's Central Records or web page at www.puc.state.tx.us. A description of the modifications to the existing graphics is as follows:

1. The graphic that provides the language for a Letter of Agency in existing §26.130(d)(3)(A) has been moved to proposed subsection (e)(3)(A), as a result of adding proposed new subsection (c) regarding the definition for "customer". The Letter of Agency language has also been modified to require that an individual legally authorized to act for a customer state their relationship to that customer; to clarify existing language; and to delete unnecessary language.
2. The graphic in §26.130(g)(3) has been modified to delete the language that required the slamming telephone company to return a customer to the original telephone company within three business days, as only the customer may request return to the original telephone company. Other modifications clarify intent and delete unnecessary language.
3. The graphics in subsection (j)(12), (13) and (14) are new graphics proposed for this section.

Ms. Jo Alene Kirkel, Director of Enforcement, Office of Customer Protection, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Kirkel has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the establishment of rights and responsibilities for both telecommunications utilities and customers regarding customer choice in the selection of local and long distance telecommunications providers. There will be no effect on small businesses or micro-businesses as a result of enforcing this section. There may be anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Kirkel has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission staff will conduct a public hearing on this rulemaking under Government Code §2001.029 at the commission's offices, located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Tuesday, April 11, 2000, at 9:30 a.m.

Comments on the proposed amendment (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Reply comments may be submitted within 45 days after publication.

The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendment. The commission will consider the costs and

benefits in deciding whether to revise the proposed amendment or adopt the proposed amendment as published. All comments should refer to Project Number 21419.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1999 Supp) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and under PURA §§55.301 – 55.308 which require the commission to adopt and enforce rules to implement the provisions of PURA Chapter 55, Subchapter K, Selection of Telecommunications Utilities.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002 and 55.301 – 55.308.

§26.130. Selection of Telecommunications Utilities.

(a) – (b) (No change.)

(c) **Definition.** The term "customer" when used in this section, shall mean any person in whose name telephone service is billed, including individuals, governmental units at all levels of government, corporate entities, and any other entity with legal capacity to be billed for telephone service.

(d) **(e)** **Changes initiated by a telecommunications utility.** Before a ~~carrier-initiated~~ change order is processed, the telecommunications utility initiating the change (the prospective telecommunications utility) must obtain verification from the customer that such change is desired for each affected telephone line(s) and ensure that such verification is obtained in accordance with 47 Code of Federal Regulations §64.1100. In the case of a ~~carrier-initiated~~ change by written solicitation, the prospective telecommunications utility must obtain verification as specified in 47 Code of Federal Regulations §64.1150, and subsection (e) ~~subsection (d)~~ of this section, relating to Letters of Agency. The prospective telecommunications utility must maintain records of all ~~carrier-initiated~~ changes, including verifications, for a period of ~~24~~ months and shall provide such records to the customer, if the ~~such~~ customer challenges the change, and to the commission staff if it so requests. A ~~carrier-initiated~~ change order must be verified by one of the following methods: ~~set out in paragraphs (1) (4) of this subsection.~~

- (1) ~~Verification may be obtained by~~ Written authorization from the customer in a form that meets the requirements of subsection (e) ~~subsection (d)~~ of this section.
- (2) ~~Verification may be obtained by~~ Electronic authorization placed from the telephone number ~~number(s)~~ which is ~~(are)~~ the subject of the change order ~~order(s)~~ except in exchanges where automatic recording of the automatic number identification (ANI) ~~ANI~~ from the local switching system is not technically possible.; ~~however, if verification is obtained by electronic authorization,~~ The prospective telecommunications utility must:
 - (A) ensure that the electronic authorization confirms the information described in subsection(e)(3) ~~subsection (d)(3)~~ of this section; and
 - (B) establish one or more toll-free telephone numbers exclusively for the purpose of verifying the change ~~so that a customer calling~~ whereby calls to the toll-free number(s) will reach ~~connect the customer to~~ a voice response unit or similar mechanism that records the required information regarding the change and ; ~~including~~ automatically records ~~recording~~ the ANI from the local switching system.
- (3) ~~Verification may be obtained by the customer's~~ Oral authorization by the customer ~~for to submit~~ the change ~~order~~, given to an appropriately qualified and independent third party ~~operating in a location physically separate from the marketing representative,~~ that confirms ~~and includes~~ appropriate verification data such as ~~(e.g.,~~ the customer's date of birth or mother's maiden name). The verification must be electronically recorded on

audio tape. The recording shall include clear and conspicuous confirmation that the customer authorized the change in telephone service provider. The independent third party shall:

(A) not be owned, managed, or directly controlled by the telecommunications utility or the telecommunications utility's marketing agent;

(B) not have financial incentive to confirm change orders; and

(C) operate in a location physically separate from the telecommunications utility or the telecommunications utility's marketing agent.

~~(4) Verification may be obtained by sending each new customer an information package via first class mail within three business days of a customer's request for a telecommunications utility change provided that such verification meets the requirements of subparagraph (A) of this paragraph and the customer does not cancel service after receiving the notification pursuant to subparagraph (B) of this paragraph.~~

~~(A) The information package must contain at least the information and material as specified in 47 Code of Federal Regulations §64.1100(d) and this subparagraph which includes:~~

~~(i) a statement that the information is being sent to confirm a telemarketing order placed by the customer within the previous week;~~

~~(ii) the name of the customer's current provider of the service that will be provided by the newly requested telecommunications utility;~~

~~(iii) the name of the newly requested telecommunications utility;~~

- ~~(iv) — the type of service(s) that will be provided by the newly requested telecommunications utility~~
- ~~(v) — a description of any terms, conditions, or charges that will be incurred;~~
- ~~(vi) — the statement, "I understand that I must pay a charge of approximately \$ (industry average charge) to switch providers. If I later wish to return to my current telephone company, I may be required to pay a reconnection charge to that company. I also understand that my new telephone company may have different calling areas, rates and charges than my current telephone company, and by not canceling this change order within 14 days of the date that this information package was mailed to me I indicate that I understand those differences (if any) and am willing to be billed accordingly;~~
- ~~(vii) — the telephone numbers that will be switched to the newly requested telecommunications utility;~~
- ~~(viii) — the name of the person ordering the change;~~
- ~~(ix) — the name, address, and telephone number of both the customer and the newly requested telecommunications utility;~~
- ~~(x) — a postpaid postcard which the customer can use to deny, cancel or confirm a service order;~~
- ~~(xi) — a clear statement that if the customer does not return the postcard the customer's telecommunications utility will be switched to the newly~~

~~requested telecommunications utility within 14 days after the date the information package was mailed by (the name of the newly requested telecommunications utility); and~~

~~(xii) the statement, "Complaints about telephone service and unauthorized changes in a customer's telephone service provider ("slamming") are investigated by the Public Utility Commission of Texas. If a telephone company "slams" you and fails to resolve your request to be returned to your original telephone company as required by law, or if you would like to know the complaint history for a particular telephone company, please write or call the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, (512) 936-7120, or toll-free within Texas at 1 (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136."~~

~~(B) The customer does not cancel the requested change within 14 days after the information package is mailed to the customer by the prospective telecommunications utility.~~

~~(e) (d) Letters of Agency (LOA). A If a telecommunications utility obtains~~ written authorization from a customer for a change of telecommunications utility ~~as specified in subsection (c)(1) of this~~

~~section, it~~ shall use a letter of agency (LOA) as specified in paragraph (3) of this subsection.~~in this subsection.~~

- (1) The LOA shall be a separate or easily separable document containing only the authorizing language described in paragraph (3) of this subsection for the sole purpose of authorizing the telecommunications utility to initiate a telecommunications utility change. The LOA must be signed and dated by the customer ~~of the telephone line(s)~~ requesting the telecommunications utility change.
- (2) The LOA shall not be combined with inducements of any kind on the same document,~~;~~ except that the LOA may be combined with a check as specified in subparagraph (B) of this paragraph.~~if the LOA and the check meet the requirements of subparagraphs (A) (B) of this paragraph.~~
 - (A) An LOA combined with a check may contain only the language set out in paragraph (3) of this subsection, and the necessary information to make the check a negotiable instrument.
 - (B) An LOA ~~A check~~ combined with a check ~~LOA~~ shall not contain any promotional language or material but shall contain~~;~~ on the front ~~of the check~~ and ~~on the~~ back of the check in easily readable, bold-faced type, ~~type~~ near the signature line, the following notice: "By signing this check, I am authorizing (name of the telecommunications utility) to be my new telephone service provider for (the type of service that ~~the telecommunications utility~~ will be provided ~~providing~~)." providing."

(3) LOA language.

(A) The LOA must be printed clearly and legibly and use only the following language:

Customer billing name: _____

Customer billing address: _____

Customer street address: _____

City, state, zip code: _____

If applicable, name Name of individual legally authorized to act for customer: _____

Relationship to customer: _____

Telephone number of individual authorized to act for customer: _____

By signing below, I am authorizing (new telecommunications utility) to become my new telephone service provider in place of (current telecommunications utility) for the provision of (type of service(s) that will be provided ~~by the new telecommunications utility~~) service. I authorize (new telecommunications utility) to act as my agent to make this change happen, and direct (current telecommunications utility) to work with the new provider ~~designated above to make effect~~ the change.

I understand that I must pay a charge of approximately \$ (industry average charge) to switch providers. If I later wish to return to my current telephone company, I may

be required to pay a reconnection charge ~~to that company~~. I also understand that my new telephone company may have different calling areas, rates, and charges than my current telephone company, and ~~that by signing below I indicate that I understand those differences (if any) and I~~ am willing to be billed accordingly.

~~I authorize (name of new telecommunications utility) to provide (type of service(s) that will be provided by the new telecommunications utility) to my telephone number(s) listed below, and no others.~~

Telephone number(s) to be changed: _____.

Initial here _____ if you are listing ~~attaching a list of~~ additional telephone numbers to be changed.

~~I certify that~~ I have read and understand this Letter of Agency. ~~I further certify that~~ I am at least eighteen years of age, and legally ~~that I am~~ authorized to change telephone companies for services to the telephone numbers listed above.

Signed: _____ Date: _____

(B) In the LOA set out by subparagraph (A) of this paragraph, the telecommunications utility seeking authorization shall replace, in bold type, the words:

(i) "(new telecommunications utility);" with its corporate name;

- (ii) "(type of service(s) that will be provided ~~by the new telecommunications utility~~);" with the type of service(s) that ~~it~~ will be ~~provided~~ providing to the customer; and
 - (iii) "I must pay a charge of approximately \$ (industry average charge)" with the text, "there is no charge" only if there is no charge of any kind to the customer for the switchover.
- (4) The LOA shall not ~~suggest or~~ require that a customer take some action in order to retain the customer's current telecommunications utility.
- (5) If any portion of an a-LOA is translated into another language, then all portions ~~of the LOA~~ must be translated ~~into that language~~. ~~The Every~~-LOA must be translated into the same language as ~~any~~ promotional materials, oral descriptions or instructions provided with the LOA.

~~(e) — **Changes initiated by a customer.** In the case of a customer initiated change of telecommunications utility, the telecommunications utility to which the customer has changed his service shall maintain a record of nonpublic customer specific information that may be used to establish that the customer authorized the change. Such information is to be maintained by the telecommunications utility for at least 12 months after the change and will be used to establish verification of the customer's authorization. This information shall be treated in accordance with the Federal Communications Commission (FCC) rules and regulations relating to customer-~~

~~specific customer proprietary network information, and shall be made available to the customer and/or the commission staff upon request.~~

(f) **Unauthorized changes.**

(1) **Responsibilities of the telecommunications utility that initiated the change.** If a customer's telecommunications utility is changed ~~without verification~~~~and the change was not made or verified~~ consistent with this section, the telecommunications utility that initiated the unauthorized change shall:

~~(A) — return the customer to the telecommunications utility from which the customer was changed (the original telecommunications utility) where technically feasible, and if not technically feasible, take all action within the utility's control to return the customer to the original utility, including requesting reconnection to the original telecommunications utility from a telecommunications utility that can execute the reversal, within three business days of the customer's request;~~

~~(A) (B)-~~ pay all ~~usual and customary~~ charges associated with returning the customer to the original telecommunications utility within five business days of the customer's request;

~~(B) (C)-~~ provide all billing records to the original telecommunications utility ~~that are~~ related to the unauthorized ~~change~~~~provision~~ of services ~~to the customer~~ within ~~ten~~~~10~~ business days of the customer's request ~~to return the customer to the original telecommunications utility;~~

~~(C) (D)~~ pay the original telecommunications utility any amount paid to it by the customer that would have been paid to the original telecommunications utility if the unauthorized change had not occurred, within 30 business days of the customer's request ~~to return the customer to the original telecommunications utility~~; and

(D) Return to the customer within 30 business days of the customer's request:

- (i) any amount paid by the customer for charges incurred during the first 30 days after the date of an unauthorized change; and
- (ii) any amount paid by the customer after the first 30 days in excess of the charges that would have been charged if the unauthorized change had not occurred.

~~(E) — return to the customer any amount paid by the customer in excess of the charges that would have been imposed for identical services by the original telecommunications utility if the unauthorized change had not occurred, within 30 business days of the customer's request to return the customer to the original telecommunications utility.~~

(2) **Responsibilities of the original telecommunications utility.** The original

telecommunications utility ~~from which the customer was changed~~ shall:

- (A) inform~~provide~~ the telecommunications utility that initiated the unauthorized change of~~with~~ the amount that would have been charged~~imposed~~ for identical services ~~by the original telecommunications utility~~ if the unauthorized change had

not occurred, within ~~ten~~10 business days of the receipt of the billing records required under ~~paragraph (1)(B)~~ ~~paragraph (1)(C)~~ of this subsection;

(B) provide to the customer all benefits associated with the ~~service~~ ~~service(s)~~ ~~(e.g.,~~ ~~such as~~ frequent flyer miles) that would have been awarded had the unauthorized change not occurred, on ~~receiving receipt of~~ payment for ~~service~~ ~~service(s)~~ provided during the unauthorized change; and

(C) maintain a record ~~of related to~~ customers that experienced an unauthorized change in telecommunications utilities that contains:

(i) the name of the telecommunications utility that initiated the unauthorized change;

(ii) the telephone number(s) ~~that were~~ affected by the unauthorized change;

(iii) the date the customer ~~asked requested that~~ the telecommunications utility that ~~made initiated~~ the unauthorized change ~~to~~ return the customer to the original ~~telecommunications utility~~ ~~carrier~~; and

(iv) the date the customer was returned to the original telecommunications utility.

(g) Notice of customer rights.

(1) Each telecommunications utility shall make available to its customers the notice set out in paragraph (3) of this subsection ~~in both English and Spanish as necessary to adequately inform the customer; however, the commission may exempt a telecommunications utility~~

~~from the requirement that the information be provided in Spanish upon application and a showing that 10% or fewer of its customers are exclusively Spanish speaking, and that the telecommunications utility will notify all customers through a statement in both English and Spanish, in the notice, that the information is available in Spanish from the telecommunications utility, both by mail and at the utility's offices.~~

- (2) Each notice provided ~~underas set out in~~ paragraph (4)(A) of this subsection shall ~~also~~ contain the name, address and telephone numbers where a customer can contact the telecommunications utility.
- (3) **Customer notice.** The notice shall state:

Selecting a ~~Telephone Company~~Telecommunications Carrier -- Your Rights as a Customer.

~~The Public Utility Commission of Texas has directed each telecommunications utility to provide this notice to customers regarding your rights when selecting a telecommunications utility. Telecommunications utilities (~~Telephone~~telephone companies)~~ are prohibited by law from switching you from one telephone service provider to another without your ~~permission~~authorization, a practice commonly known as "slamming."

~~If you are slammed, you should contact your new provider—the telephone company that switched you without authorization—and request that it return you to your original telephone service provider.~~

Texas law requires ~~the a local or long distance telephone service provider (telephone company)~~ that ~~has~~ slammed you to do the following:

- ~~1. Return you to your original telephone company within three business days of your request.~~
- ~~1. 2.~~ Pay all ~~the usual and customary~~ charges associated with returning you to your original telephone company within five business days of your request ~~to be returned to your original telephone company.~~
- ~~2. 3.~~ Provide all billing records to your original telephone company within ten business days of your request ~~to be returned to your original telephone company.~~
- ~~3. 4.~~ Pay your ~~the~~ original telephone company the amount ~~paid~~ you would have paid ~~to your original telephone company~~ if you had not been slammed.
- ~~4. 5.~~ Refund to you, within 30 business days, any amount you paid for charges during the first 30 days after the slam and any amount more than what over the amount that you would have paid for identical services by your original telephone company for charges after the first 30 days following the slam if you had not been slammed.

~~Please note that once your original telephone company has been paid by the slamming company, Your~~ your original telephone company is required ~~by law~~ to provide you with

all the benefits, such as (e.g., frequent flyer miles,) you would have normally received for your telephone use during the period in which you were slammed.

If you have been slammed, you can change your service immediately back to your original provider by calling your local telephone company. You should also report the slam by writing or calling ~~Complaints relating to slamming, the unauthorized change in a customer's telephone company, are investigated by the Public Utility Commission of Texas. If a telephone company slams you and fails to resolve your request to be returned to your original local or long distance telecommunications service provider as required by law, or if you would like a complaint history for a particular telephone company, please write or~~ call the Public Utility Commission of Texas, P. O. Box 13326, Austin, Texas 78711-3326, (512) 936-7120 or in Texas (toll-free) 1 (888) 782-8477, fax: (512) 936-7003, e-mail address: customer@puc.state.tx.us. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

You can prevent slamming by requesting a preferred telephone company freeze from your local telephone company. This requires that you give your consent to the local telephone company before a change can be made. A freeze may apply to local toll service, long distance service, or both. The Public Utility Commission of Texas can give you more information about freezes or your rights as a customer.

~~Be advised that you may have additional rights under state and federal law. Please contact the Public Utility Commission if you would like further information about these additional rights.~~

(4) **Language, distributionDistribution and timing of notice.**

- (A) Telecommunications utilities shall send the notice to new customers at the time service is initiated, and upon customer request.
- (B) Each telecommunications utility shall print the notice in the white pages of its telephone directories, beginning with the first publication of such directories ~~after~~subsequent to the effective date of this section; ~~thereafter,~~ The notice must appear in the white pages of each telephone directory published ~~thereafter~~for the telecommunications utility. The notice that appears in the directory is not required to list the information contained in paragraph (2) of this subsection.
- (C) The notice shall be in both English and Spanish as necessary to adequately inform the customer. The commission may exempt a telecommunications utility from the Spanish requirement if the telecommunications utility shows that 10% or fewer of its customers are exclusively Spanish-speaking, and that the telecommunications utility will notify all customers through a statement in both English and Spanish that the information is available in Spanish by mail from the telecommunications utility or at the utility's offices.

(h) **Compliance and enforcement.**

(1) **Records of customer verifications and unauthorized changes.** A

telecommunications utility shall provide a copy of records maintained under the requirements of subsections (d), (e), and (f)(2)(C) ~~subsections (e)–(e)~~ of this section to the commission staff upon request.

~~(2) **Records of unauthorized changes.** A telecommunications utility shall provide a copy of records maintained under the requirements of subsection (f)(2)(C) of this section to the commission staff upon request.~~

~~(2)~~⁽³⁾ **Administrative penalties.** If the commission finds that a telecommunications utility is

~~has repeatedly engaged~~ in violations of this section, the commission shall order

the utility to take corrective action as necessary, and the utility may be subject to

administrative penalties pursuant to the Public Utility Regulatory Act (PURA) PURA

§15.023 and §15.024. ~~For purposes of §15.024(b) and (c), there shall be a rebuttable~~

~~presumption that a single incident of an unauthorized change in a customer's~~

~~telecommunications utility ("slamming") is not accidental or inadvertent if subsequent~~

~~incidents of slamming by the same utility occur within 30 days of when the incident is~~

~~reported to the commission, or during the 30-day cure period. Any proceeds from~~

~~administrative penalties that are collected under this section shall be used to fund~~

~~enforcement of this section.~~

~~(3)-(4)~~ **Certificate revocation.** If the commission finds that a telecommunications utility is repeatedly and recklessly in violation of this section, and if consistent with the public interest, the commission may suspend, restrict, deny, or revoke the registration or certificate, including an amended certificate, of the telecommunications utility, thereby denying the telecommunications utility the right to provide service in this state. ~~For purposes of this section, a single incident of slamming may be deemed reckless if subsequent incidents of slamming by the same telecommunications utility occur during the 30-day grace period after an incident of slamming is reported to the commission regarding the initial incident.~~

- (i) **Notice of identity of a customer's telecommunications utility.** Any bill for telecommunications services must contain the following information ~~contained in paragraphs (1)-(4) of this subsection~~ in easily-readable, bold type in each bill sent to a customer. Where charges for multiple lines are included in a single bill, ~~this~~ the information ~~contained in paragraphs (1)-(3) of this subsection~~ must appear be contained on the first page of the bill if to the extent possible ~~or~~. ~~Any information that cannot be located on the first page must be~~ displayed prominently elsewhere in the bill.:
- (1) ~~If a bill is for local exchange service,~~ The name and telephone number of the telecommunications utility ~~that is~~ providing local exchange service if the bill is for local exchange service ~~directly to the customer.~~

- (2) ~~If the bill is for interexchange services,~~ Thethe name and telephone number of the primary interexchange carrier if the bill is for interexchange service.
- (3) ~~The name and telephone number of the local exchange and interexchange providers if the local exchange provider is billing for the interexchange carrier. In such cases where the telecommunications utility providing local exchange service also provides billing services for a primary interexchange carrier, the first page of the combined bill shall identify both the local exchange and interexchange providers, as required by paragraphs (1) and (2) of this subsection; however,~~ The the commission may, for good cause, waive this requirement in exchanges served by incumbent local exchange companies serving 31,000 access lines or less.
- (4) A statement urging customers who believe they have been slammed to contact the ; ~~prominently located in the bill, that if the customer believes that the local exchange provider or the interexchange carrier named in the bill is not the customer's chosen interexchange carrier, that the customer may contact:~~ Public Utility Commission of Texas, Office of Customer Protection, P.O. Box 13326, Austin, Texas 78711-3326, (512) 936-7120 or in Texas (toll-free) 1 (888) 782-8477, fax: (512) 936-7003, e-mail address: customer@puc.state.tx.us. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

(j) Preferred telecommunications utility freezes.

- (1) **Purpose.** A preferred telecommunications utility freeze ("freeze") prevents a change in a customer's preferred telecommunications utility selection unless the customer gives consent to the local exchange company that implemented the freeze.
- (2) **Nondiscrimination.** All local exchange companies shall offer freezes on a nondiscriminatory basis to all customers regardless of the customer's telecommunications utility selection except for local telephone service.
- (3) **Type of service.** Customer information on freezes shall clearly distinguish between intraLATA and interLATA telecommunications services. The local exchange company offering a freeze shall obtain separate authorization for each service for which a freeze is requested.
- (4) **Freeze information.** All information provided by a telecommunications utility about freezes shall have the sole purpose of educating customers and providing information in a neutral way to allow the customer to make an informed decision, and shall not market or induce the customer to request a freeze. A telecommunications utility shall not provide information about freezes, unless requested by the customer, during the process of signing up a customer for service. The freeze information provided to customers shall include:
- (A) a clear, neutral explanation of what a freeze is and what services are subject to a freeze;
- (B) instructions on lifting a freeze that make it clear that these steps are in addition to required verification for a change in preferred telecommunications utility;

- (C) an explanation that the customer will be unable to make a change in telecommunications utility selection unless the customer lifts the freeze; and
- (D) a statement that there is no charge to the customer to impose or lift a freeze.
- (5) **Freeze verification.** A local exchange company shall not implement a freeze unless the customer's request is verified using one of the following procedures:
- (A) A written and signed authorization that meets the requirements of paragraph (6) of this subsection.
- (B) An electronic authorization placed from the telephone number on which a freeze is to be imposed. The electronic authorization shall confirm appropriate verification data such as the customer's date of birth or mother's maiden name and the information required in paragraph (6)(G) of this subsection. The local exchange company shall establish one or more toll-free telephone numbers exclusively for this purpose. Calls to the number(s) will connect the customer to a voice response unit or similar mechanism that records the information including the originating ANI.
- (C) An appropriately qualified independent third party obtains the customer's oral authorization to submit the freeze and confirms appropriate verification data such as the customer's date of birth or mother's maiden name and the information required in paragraph (6)(G) of this subsection. This shall include clear and conspicuous confirmation that the customer authorized a freeze. The independent third party shall:

- (i) not be owned, managed, or directly controlled by the local exchange company or the local exchange company's marketing agent;
- (ii) not have financial incentive to confirm freeze requests; and
- (iii) operate in a location physically separate from the local exchange company or its marketing agent.

(6) **Written authorization.** A written freeze authorization shall:

- (A) be a separate or easily separable document with the sole purpose of imposing a freeze;
- (B) be signed and dated by the customer;
- (C) not be combined with inducements of any kind;
- (D) be completely translated into another language if any portion is translated;
- (E) be translated into the same language as any educational materials, oral descriptions, or instructions provided with the written freeze authorization;
- (F) be printed with readable type of sufficient size to be clearly legible; and
- (G) contain clear and unambiguous language that confirms:
 - (i) the customer's name, address, and telephone number(s) to be covered by the freeze;
 - (ii) the decision to impose a freeze on the telephone number(s) and the particular service with a separate statement for each service to be frozen;

- (iii) that the customer understands that a change in telecommunications utility cannot be made unless the customer lifts the freeze; and
 - (iv) that the customer understands that there is no charge for imposing or lifting a freeze.
- (7) **Lifting freezes.** A local exchange company that executes a freeze request shall allow customers to lift a freeze by:
 - (A) written and signed authorization stating the customer's intent to lift a freeze;
 - (B) oral authorization stating an intent to lift a freeze confirmed by the local exchange company with appropriate confirmation verification data such as the customer's date of birth or mother's maiden name; or
 - (C) a three-way conference call with the local exchange company, the telecommunications utility that will provide the service, and the customer.
- (8) **No customer charge.** The customer shall not be charged for imposing or lifting a freeze.
- (9) **Local service freeze prohibition.** A local exchange company shall not impose a freeze on local telephone service.
- (10) **Marketing prohibition.** A local exchange company shall not engage in any marketing of its services during the process of implementing or lifting a freeze.
- (11) **Freeze records retention.** A local exchange company shall maintain records of all freezes and verifications for a period of 24 months and shall provide these records to customers and to the commission staff upon request.

(12) **Suggested freeze information language.** Telecommunications utilities that **inform** customers about freezes may use the following language. Other versions may be used, but shall comply with all of the requirements of paragraph (4) of this subsection.

Preferred Telephone Company Freeze

A preferred telephone company freeze ("freeze") prevents a change in a customer's telephone provider unless you consent by contacting the local telephone company. A freeze can protect you against "slamming" (switching your telephone service without your permission). You can impose a freeze on your local toll, long distance service, or both. To impose a freeze, contact your local telephone company. The local telephone company must verify your freeze request by getting your written and signed authorization, electronic authorization, or through an independent third party verification. You may lift a freeze by giving your local telephone company a written and signed request or by calling your local telephone company with your request. You must do this in addition to providing the verification information that your new telephone provider will request. You will not be able to change your telephone provider without lifting the freeze. There is no charge to the customer for imposing or lifting a freeze.

(13) **Suggested freeze authorization form.** The following form is recommended for written authorization from a customer requesting a freeze. Other versions may be used, but shall comply with all of the requirements of paragraph (6) of this subsection.

Freeze Authorization Form

Customer billing name: _____

Customer service address: _____

City, state, zip code: _____

Customer mailing service address: _____

City, state, zip code: _____

Telephone number (1): _____

Telephone number (2): _____

Telephone number (3): _____

The purpose of a freeze is to prevent a change in your telephone company without your consent. A freeze is a protection against "slamming" (switching your telephone company without your permission). You can impose a freeze on either your local toll or long distance service provider, or both. If you want a freeze, you must contact (name of local telephone company) at (phone number) to lift the freeze before you can change your service provider. You may add or lift a freeze at any time at no charge.

Please complete the following for each service for which you are requesting a freeze:

I authorize a freeze for the telephone number(s) listed above for local toll service.

Current preferred local toll company: _____

Customer's signature: _____

Date: _____

I authorize a freeze for the telephone number(s) listed above for long distance service.

Current preferred long distance company: _____

Customer's signature: _____

Date: _____

Mail this form to:

(Name of local telephone company)

(Address)

Or FAX to: (FAX number)

(14) **Suggested freeze lift form.** The following form is recommended for written authorization to lift a freeze. Other versions may be used, but shall comply with all of the requirements of paragraph (7) of this subsection.

Freeze Lift Form

Customer billing name: _____

Customer service address: _____

City, state, zip code: _____

Customer mailing service address: _____

City, state, zip code: _____

Telephone number (1): _____

Telephone number (2): _____

Telephone number (3): _____

Please complete the following for each service that you wish to lift a freeze:

I wish to remove a freeze for the telephone number(s) listed above for local toll service.

Current preferred local toll company: _____

Customer's signature: _____

Date: _____

I wish to remove a freeze for the telephone number(s) listed above for long distance service.

Current preferred long distance company: _____

Customer's signature: _____

Date: _____

Mail this form to:

(Name of local telephone company)

(Address)

Or FAX to: (FAX number)

(k) Transferring customers from one telecommunications utility to another.

(1) Any telecommunications utility that will acquire customers from another telecommunications utility that will no longer provide service due to acquisition, merger, bankruptcy or any other reason, shall provide notice to every affected customer. The notice shall be in a billing insert or separate mailing at least 30 days prior to the transfer of any customer and shall:

(A) identify the current and acquiring telecommunications utilities;

(B) explain why the customer will not be able to remain with the current telecommunications utility;

(C) explain that the customer has a choice of selecting a service provider and may select the acquiring telecommunications utility or any other telecommunications utility;

(D) explain that if the customer wants another telecommunications utility, the customer should contact that telecommunication utility or the local telephone company;

(E) explain the time frame for the customer to make a selection and what will happen if the customer makes no selection;

(F) identify the effective date that customers will be transferred to the acquiring telecommunications utility;

(G) provide the rates and conditions of service of the acquiring telecommunications utility; and

(H) provide a toll-free telephone number for a customer to call for additional information.

(2) The acquiring telecommunications utility shall provide the Office of Customer Protection with a copy of the notice when it is sent to customers.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 2nd DAY OF FEBRUARY 2000 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**