

The Public Utility Commission of Texas (commission) adopts new §26.215 relating to Long Run Incremental Cost Methodology for Dominant Certificated Telecommunications Utility (DCTU) Services with changes to the proposed text as published in the February 5, 1999 *Texas Register* (24 TexReg 664). New §26.215 replaces §23.91 of this title (relating to Long Run Incremental Cost Methodology for Dominant Certificated Telecommunications Utility (DCTU) Services). Section 26.215 requires DCTUs to determine and provide to the commission the long run incremental costs (LRIC) incurred in the provision of telecommunications services. This section is adopted under Project Number 20102.

The Appropriations Act of 1997, HB 1, Article IX, Section 167 (Section 167) requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Such reviews shall include, at a minimum, an assessment by the agency as to whether the reason for adopting or readopting the rule continues to exist. The commission held three workshops to conduct a preliminary review of its rules. As a result of these workshops, the commission is reorganizing its current substantive rules located in 16 Texas Administrative Code (TAC) Chapter 23 to (1) satisfy the requirements of Section 167; (2) repeal rules no longer needed; (3) update existing rules to reflect changes in the industries regulated by the commission; (4) do clean-up amendments made necessary by changes in law and commission organizational structure and practices; (5) reorganize rules into new chapters to facilitate future amendments and provide room for

expansion; and (6) reorganize the rules according to the industry to which they apply. Chapter 26 has been established for all commission substantive rules applicable to telecommunications service providers.

The commission published notice of its intention to review §23.91 in the February 5, 1999 issue of the *Texas Register* (24 TexReg 660). In the notice of intention to review, the commission requested specific comments on the Section 167 requirement regarding whether the reason for adopting §23.91 continues to exist in adopting corresponding §26.215 in Chapter 26. The commission received no comments regarding the Section 167 requirement and finds that the reason for adopting §26.215 continues to exist in adopting this new section.

The commission received comments from Southwestern Bell Telephone Company (SWBT) and the Office of Public Utility Counsel (OPC) on specific provisions.

SWBT first questioned the necessity and usefulness of the administrative review process outlined in proposed subsection (k). In its comments, SWBT argued that the administrative review process was intended to "save time in hearings by having a study administratively approved, so that the study could then be used in hearings without raising a host of cost issues." However, SWBT complained that once a cost study has been approved in the administrative review process, it is not necessarily binding on any party in the event that SWBT relies upon it in a retail tariff application as it attempted to do in Docket Number 20037, *Application of Southwestern Bell Telephone Company to Introduce New or Modified Rates or Terms for Megalink Services*

Pursuant to Substantive Rule §23.25. SWBT then requested that either the company be allowed to rely on cost studies reviewed through the §23.91 process in a tariff proceeding without further litigation, or the administrative review process be made significantly less burdensome requiring only rudimentary compliance with fundamental principles. SWBT suggested language to affirm that an approved cost study within its "planning period" is applicable in a retail tariff application.

OPC, in late filed comments, responded to SWBT by suggesting that the commission rule should specifically set out the maximum possible duration of planning periods in a group of cost studies so that there is an outer limit to such time period should the commission decide to implement SWBT's proposed language. If the commission decides to amend the administrative review process by requiring less stringent compliance with fundamental principles, OPC suggested that the commission define specifically the actions of the company that would constitute compliance with the reduced standard. OPC also commented on the language in proposed subsections (f)(5), (g)(8), (h)(7), and (i)(5) which state that " When the company uses the most recent commission approved rate of return for the company, determined either in a rate proceeding ... or a commission arbitration proceeding, there will be a rebuttable presumption of its reasonableness." OPC's concern is that a cost study may continue to be presumed reasonable solely because the company uses the most recent commission approved rate of return while all other portions of the cost study may be outdated. OPC therefore recommended that the commission reserve the authority to deny or approve the use of cost studies on a case by case basis. Furthermore, OPC suggested that the presiding officer should make the final decision if the reasonableness of a cost study is challenged. Finally, OPC requested that the commission offer guidance as to what

constitutes "significant change" in proposed subsection (j)(1) where a DCTU is required to update their filings only where significant changes have occurred. OPC also requested that the commission clarify who is authorized to determine what is a "significant change".

The commission does not believe that this rule needs to be changed to address either SWBT's or OPC's concerns regarding the validity of the cost studies. First, the commission has addressed how challenges to LRIC cost studies should be handled in its preliminary order in Docket Number 20037. In the preliminary order, the commission determined that if the presiding officer is persuaded that the LRIC cost study should be reviewed in response to a challenge, the review of the cost study shall continue to be conducted in the context of a §23.91 proceeding. Therefore, the commission concludes that this rule does not need to be changed in response to SWBT's comment. Second, OPC's concern that the presumed reasonableness of the cost of money will render the cost study itself to be presumed reasonable is a misinterpretation of the rule language in proposed subsections (f)(5), (g)(8), (h)(7), and (i)(5). The language refers to the reasonableness of the cost of money used, and does not in any way refer to the reasonableness of the cost study as a whole. In response to OPC's request for clarification on what constitute "significant changes", the commission concludes that while spelling out what constitute "significant changes" may have the benefit of clarity, it may not be practical for an industry where technology is constantly changing and unpredictable, causing the list of cost drivers to change accordingly. In regard to who makes the final decision, the commission finds that the rule is clear in proposed subsection (k) that the commission reserves the right to make the final determination. The commission therefore declines to consider OPC's suggestion.

SWBT also proposed the elimination of the requirement for the identification of the Basic Network Functions (BNFs) in the costing of retail services. OPC noted that even though BNFs may currently serve a lesser role than was originally intended, they are likely to play a very important role in a relaxed regulatory environment wherein incumbent local exchange companies (ILECs) will have greater flexibility in the pricing of services. The commission agrees with OPC that it is not appropriate to eliminate the BNF concept. Furthermore, SWBT offers no alternative to the use of BNFs. Even if SWBT had offered alternatives to the BNF concept, changing the underlying concept would render all existing cost studies based on BNFs meaningless and therefore require another round of cost studies using the alternative. Therefore the commission rejects SWBT's proposal.

Finally, SWBT proposes to eliminate the requirement under proposed subsection (h) to identify common costs. The commission declines to modify the rule as suggested by SWBT regarding common costs as long as the requirement that "each service recover the appropriate costs, including joint and common costs, of each facility and function used to provide the service" remains in the Public Utility Regulatory Act §60.101(b)(3).

Section 26.215 as proposed referenced §23.21(d)(1). Section 23.21 was repealed effective March 1, 1999 and new §26.201 was adopted to replace §23.21. All references in §26.215 to §23.21(d)(1) have been updated to reference new §26.201(d)(1). For consistency, the commission has also changed all references to "Mbps" to "MBPS".

This section is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998) (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 specifically, PURA §52.059 which grants the commission authority to adopt standards necessary to ensure that a rate established under this subchapter covers appropriate costs as determined by the commission. PURA §52.053 requires the commission to ensure that a rate established under this subchapter may not be (1) unreasonably preferential, prejudicial, or discriminatory; (2) subsidized either directly or indirectly by a regulated monopoly service; or (3) predatory or anticompetitive. PURA §52.053 hence authorizes the commission to review and approve LRIC cost studies.

Cross-Index to Statutes: Public Utility Regulatory Act §§14.002, 52.053, and 52.059.

**§26.215. Long Run Incremental Cost Methodology for Dominant Certificated
Telecommunications Utility (DCTU) Services.**

- (a) **Application.** This section shall apply to DCTUs with annual revenues from regulated telecommunications operations in Texas of \$100 million or more for five consecutive years. An incumbent local exchange carrier that is not a Tier 1 local exchange company as of September 1, 1995, at that company's option, may adopt the cost studies approved by the commission for a Tier 1 local exchange company.
- (b) **Purpose.** This section shall be used to determine the long run incremental costs incurred by DCTUs in the provision of telecommunications services. The costs determined in this section shall not be used to determine a company's revenue requirement during a proceeding pursuant the Public Utility Regulatory Act, Chapter 53, Subchapters C and D or E.
- (c) **Definitions.** The following words and terms when used in this section shall have the following meaning unless the context clearly indicates otherwise.
- (1) **Ancillary services** — The category of basic network functions (BNFs) (as defined in paragraph (2) of this subsection) that provide for certain activities that either support or otherwise are adjuncts to other BNFs or finished services. This category of BNFs consists of three subcategories of BNFs: Billing and Collection; Measurement; and Operator Services.

- (A) **Billing and collection** — The subcategory of BNFs that provide for the function of compiling the information needed for customer billing, preparing the customer bill statement, disbursing the bill and collecting the customer payments.
 - (B) **Measurement** — The subcategory of BNFs that provide the functions of assembling, collating and transmitting end office switch recorded call data (occurrence and duration).
 - (C) **Operator services** — The subcategory of BNFs that provide for the provision of a number of live or mechanized assistance functions to aid customers in the following ways: obtaining customer telephone number, street address and ZIP code information (directory assistance); providing new telephone numbers or explanatory information to callers who dial numbers which have been changed or disconnected (intercepts); providing assistance to customers in completing operator handled toll or local calls (collect, credit card, third party, station-to-station or person-to-person); checking busy lines to make sure the line is not out of service (busy line verification); and interrupting busy lines (busy line interruption). These operator services are provided to end user customers as well as local exchange and interexchange carriers.
- (2) **Basic network function (BNF)** — A discrete network function, which is useful either as a stand-alone function or in combination with other functions, for which costs can be identified.

- (3) **Capital costs** — The recurring costs that result from expenditures for plant facilities that are capitalized. The annual capital costs consist of depreciation, cost of money, and income taxes.
- (4) **Categories of BNFs** — All BNFs shall fall into one of four categories of BNFs. The categories are: network access (as defined in paragraph (13) of this subsection); switching and switch functions (as defined in paragraph (16) of this subsection); dedicated and switched transport (as defined in paragraph (10) of this subsection); and ancillary services (as defined in paragraph (1) of this subsection).
- (5) **Common costs** — Costs that are not directly attributable to individual cost objects. For the purposes of this section there are three types of common costs: general overhead costs; costs common to BNFs; and costs common to services.
 - (A) **General overhead costs** — Costs incurred in operating and managing the company that are not directly attributable to BNFs or services.
 - (B) **Costs common to BNFs** — Costs incurred in the provision of BNFs that can not be directly attributed to any one BNF individually but only to a category or subcategory of BNFs collectively.
 - (C) **Costs common to services** — Costs incurred in the provision of two or more services that do not vary with changes in the relative proportions of the outputs of those services. Common costs are not directly attributable to any one service individually but only to a group of services collectively.

In the event a BNF is used in the provision of two or more services then the volume insensitive cost of the BNF is a cost common to the services

that use the BNF. However, if the technological requirements for the provision of one service alter the least cost technology choice for common BNFs or common facilities, then the increase in costs caused by the requirements for more advanced technologies is not a common cost but a cost directly attributable to the service that alters the least cost technology choice.

- (6) **Cost causation principle** — The principle that only those costs that are caused by an activity (such as a network function, service, or group of services) in the long run are directly attributable to that activity. Costs are caused by an activity, in the long run, if the costs are brought into existence as a direct result of the activity.
- (7) **Cost driver** — A specific condition, under which a BNF is provided, whose change causes significant and systematic changes in the cost of providing a BNF. For example, if the cost of providing a network access channel varies with the density and size of a wire center, then density and size are cost drivers for that BNF.
- (8) **Cost of debt** — The rate of interest paid on borrowed money.
- (9) **Cost of money** — The weighted annual cost to the DCTU of the debt and equity capital invested in the company.
- (10) **Dedicated and switched transport** — The category of BNFs that provide for dedicated or shared transmission transport between two or more DCTU switching offices or wire centers. This BNF category consists of two subcategories of BNFs: Dedicated Transport and Switched Transport.

- (A) **Dedicated transport** — The subcategory of BNFs that provide for full period, bandwidth specific (e.g., DS-0, DS-1, DS-3) interoffice transmission paths between the originating and terminating points of channel connection.
 - (B) **Switched transport** — The subcategory of BNFs that provide for shared interoffice transmission paths between originating and terminating points of switching.
- (11) **Group of services** — A number of separately tariffed services that share significant common costs (as defined in paragraph (5) of this subsection) that are necessary and unique to the provision of those services and are not directly attributable to any one service individually. This term also refers to a situation in which two or more groups of services are part of a larger group of services because of significant common costs that are necessary and unique to the provision of all the services in the group but are not directly attributable to any one group or service individually.
- (12) **Measure of unit cost** — The measure of usage used to calculate unit cost for a particular BNF (for example, a minute of use of a switching function, or a quarter mile of a DS-1 network access channel). The measure of unit costs may be multidimensional; for example, it may have both time and distance components. The measure of unit cost chosen for a BNF shall correspond to the basis upon which the costs of that BNF are incurred.
- (13) **Network access** — The category of BNFs that accommodate access to other

network functions provided by DCTUs. Access is accomplished by transmission paths between customers and DCTU wire centers. This category consists of three subcategories of BNFs: network access channel; network access channel connection; and channel performance and other features and functions.

- (A) **Network access (NA) channel** — The subcategory of BNFs that provide the transmission path between the point of interface at the customer location and the main distribution frame, or equivalent (e.g., DSX-1, DSX-3), of a DCTU wire center.
 - (B) **Network access (NA) channel connection** — The subcategory of BNFs that provide the interface between the network access channel and the DCTU wire center switching equipment, subsequent dedicated transport equipment (dedicated interoffice circuits), or subsequent channel equipment (dedicated intraoffice circuits).
 - (C) **Channel performance and other features and functions** — The subcategory of BNFs that provide the channel functions associated with transmission or service type (e.g., analog, digital, coin, ISDN), bandwidth conversion, signaling, multiplexing, amplification, and channel performance.
- (14) **Significant** — For the purposes of this section, the qualifying term significant is used to refer to instances in which costs or changes affect total study results by at least five percent. This general guideline for when costs or changes are significant may be relaxed by considering the cumulative effect of either including or

excluding costs or changes from a study.

- (15) **Subcategories of BNFs** — Groupings of closely related BNFs in a category of BNFs.
- (16) **Switching and switch functions** — The category of BNFs that provide for switched access between two or more network access channels or between network access channels and other BNFs, such as interoffice transport. This function is accomplished through the establishment of a temporary transmission path between network access channels in the same switching office; between a network access channel and the interoffice facilities that interconnect switching offices; or between a network access channel and other BNFs. This BNF category shall cover the first point of switching for a customer. This BNF category consists of three subcategories of BNFs: interoffice switching; intraoffice switching; and switching features.
 - (A) **Interoffice switching** — The subcategory of BNFs that provide for: switching between network access channels and switched transport facilities which are connected to different wire centers; and switching between network access channels and switched transport facilities when a tandem switch is used as the first point of interface to the DCTU switched network (e.g., connection of facilities from an interexchange carrier's point of network interface).
 - (B) **Intraoffice switching** — The subcategory of BNFs that provide for switching between two or more network access channels within the same

wire center.

(d) **General principles.**

- (1) Underlying the construction and application of this section is the recognition that the DCTU network consists of a finite number of BNFs that, when bundled in various combinations, can be used to deliver and market a vast variety of telecommunications services. Therefore, the determination of the cost of a service and the costs of a group of services under this section shall involve the identification and costing of BNFs.
- (2) The LRIC studies that the DCTU is required to file under this section shall assume that the company is operating in the long run and employs least cost technologies, as those terms are defined in subsection (c) of this section.
- (3) In order to obtain accurate LRIC study results, the DCTU shall avoid the use of embedded cost data; expense items and capital costs shall reflect long run incremental costs and the DCTU shall justify any instance in which embedded cost data are used. Further, the fact that the costs determined under this section may differ from the company's embedded costs as determined during proceedings under the Public Utility Regulatory Act, Chapter 53, Subchapters C and D or E, should in no way cause the company to attribute any of this cost discrepancy to LRIC studies for BNFs, services, or groups of services.
- (4) When a BNF is used in the provision of two or more services then the volume insensitive cost of the BNF is a cost common to the services (as defined in

subsection (c)(5)(C) of this section) that use the BNF.

- (5) When services share significant common costs (as defined in subsection (c)(5)(C) of this section), none of the common costs shall be included in the LRIC studies for the services individually; instead, the company shall identify which services share the common costs and attribute the cost recovery responsibility of these costs to the group of services collectively. Specifically, the individual LRIC studies for residential and business basic local exchange service, as these services are tariffed on the effective date of this section, shall exclude any volume insensitive costs associated with the use of the network access channel basic level (as defined in subsection (e)(1)(A) of this section) and network access channel connection basic level (as defined in subsection (e)(2)(A) of this section).
 - (6) When two or more groups of services share common costs, none of the common costs shall be included in the LRIC studies for groups individually; instead, the company shall identify which groups share the common costs and assign the common cost recovery responsibility of these costs to these groups collectively.
 - (7) Nothing in this section is intended to either endorse or reject the DCTU's current rate and tariff structures.
- (e) **Identification of basic network functions.** The DCTU shall identify for each subcategory of BNFs the relevant and separately identifiable BNFs. The determination of the appropriate degree of aggregation of network components, functions, or activities into separately identifiable BNFs shall be consistent with the principles described in

subsection (d) of this section. Furthermore, in choosing BNFs, the DCTU shall seek to minimize the number of network components, functions, or activities that are not included in BNFs. In addition to BNFs the company identifies under this subsection, the company shall identify for each subcategory of BNFs the following prescribed BNFs:

(1) Required BNFs for subcategory network access (NA) channel:

- (A) **NA channel basic level:** A transmission path which provides less than 1.544 MBPS digital capability. This includes 300 to 3,000 Hz analog voice service.
- (B) **NA channel DS-1 level:** A transmission path which has 1.544 MBPS digital capability.
- (C) **NA channel DS-3 level:** A transmission path which has 45 MBPS digital capability.

(2) Required BNFs for subcategory NA Channel Connection:

- (A) **NA channel connection basic level:** An interface for channels which provide less than 1.544 MBPS digital capability. This includes the interface for 300 - 3,000 Hz analog voice service which is the basic interface for most voice grade services such as: basic local residential and local business service, PBX trunks, centrex-type access lines and voice grade dedicated transport service. In addition, this category includes the interface for four frequency bandwidths provided for audio channels such as: 200 to 3,500 Hz, 100 to 5,000 Hz, 50 to 8,000 Hz and 50 to 15,000 Hz. Also included in this BNF are the interfaces for low speed data

transmission at speeds of 2.4, 4.8, 9.6, 56 KBPS and all other speeds below the T-1 rate of 1.544 MBPS. This interface is for narrowband service.

(B) **NA channel connection DS-1 level:** An interface for 1.544 MBPS digital transmission channels. This interface connects high capacity wideband transmission channels which operate in a full duplex, time division (digital) multiplexing mode.

(C) **NA channel connection DS-3 level:** An interface for 45 MBPS digital transmission channels. This interface connects broadband transmission channels which operate in full duplex, time division (digital) multiplexing mode.

(3) **Required BNFs for subcategory Channel Performance and Other Features and Functions:**

(A) **Standard signaling and transmission level capabilities.** Signaling and transmission level capabilities suitable for a wide variety of network services and applications associated with the BNF NA channel basic level, as defined in paragraph (1)(A) of this subsection.

(B) **Nonstandard signaling and transmission level capabilities and other features.** Signaling and transmission level capabilities and other features and functions, other than those defined in subparagraph (A) of this paragraph, such as high voltage protection, multiplexing, and bridging. The company is encouraged to disaggregate this BNF into smaller BNFs

that capture the variety of features and functions available to customers.

(4) **Required BNFs for subcategory interoffice switching: interoffice switching.**

The type of switching that provides for: switching between network access channels and switched transport facilities which are connected to different wire centers; and switching between network access channels and switched transport facilities when a tandem switch is used as the first point of interface to the switched network (e.g., connection of facilities from an interexchange carrier's point of network interface).

(5) **Required BNFs for subcategory intraoffice switching: intraoffice switching.**

Switching between two or more network access channels served from the same wire center.

(6) **Required BNFs for subcategory switching features:**

(A) **Hunting arrangements.** An optional function available to customers with multiple local exchange access lines in service.

(B) **Custom calling features.** Various optional features which provide added calling convenience.

(C) **Central office automatic call distribution.** The provision of call distribution as an integrated function of certain electronic central offices equipped to provide this capability. This function permits an equal distribution of a large volume of incoming calls to predesignated groups of answering positions, referred to as agent positions.

(D) **Central office based PBX-type functions.** A business communications

system furnished from stored program control central offices that provides the equivalent of customer premises PBX services through the use of central office hardware and software as well as through network access facilities from the central office to the customer premises. Included in this BNF shall be only hardware specific to this type of service, processor or memory usage involved in special features for this type of service, and any software or software right to use fees associated with this type of service. This BNF should exclude any network functions that are already identified as other BNFs.

(7) **Required BNFs for subcategory dedicated transport:**

- (A) **Dedicated transport termination.** An interface which provides for the transmission conversions (e.g., multiplexing) required between channel connection and dedicated transport facilities.
- (B) **Dedicated transport facility.** The full period, bandwidth specific (e.g., DS-0, DS-1, and DS-3), interoffice transmission paths established between two points of dedicated transport termination.

(8) **Required BNFs for subcategory switched transport:**

- (A) **Switched transport termination.** An interface which provides for the transmission conversion (e.g., multiplexing) required between the switching function and switched transport facilities.
- (B) **Switched transport facility.** The temporary interoffice transmission paths established between two points of switched transport termination.

- (C) **Switched transport tandem switching.** The intermediate points of switching used as an economic surrogate to direct routing of interoffice facilities in the provision of switched transport.
- (9) **Required BNFs for subcategory billing and collection: billing and collection.** The function of compiling the information needed for customer billing, preparing the customer bill statement, disbursing the bill and collecting the customer payments (this includes any collection activities required for late payment or non-payment of billing amount due).
- (10) **Required BNFs for subcategory measurement: measurement.** The function of assembling, collating and transmitting end office switch recorded call data (occurrence and duration).
- (11) **Required BNFs for subcategory operator services: operator services.** The role of providing a number of live or mechanized assistance functions to aid customers in the following ways: obtaining customer telephone number, street address and ZIP code information (directory assistance); providing new telephone numbers or explanatory information to callers who dial numbers which have been changed or disconnected (intercepts); providing assistance to customers in completing operator handled toll or local calls (collect, credit card, third party, station-to-station or person-to-person); checking busy lines to make sure the line is not out of service (busy line verification); and interrupting busy lines (busy line interruption). These operator services are provided to end user customers as well as local exchange and interexchange carriers.

(f) **LRIC studies for individual BNFs.** The DCTU shall perform a LRIC study for each of the BNFs identified under subsection (e) of this section. The company shall perform the LRIC studies consistent with the principles described in subsection (d) of this section. Additionally, the company shall use the following instructions in determining the LRIC for individual BNFs.

(1) **Relevant increment of output.** For the purposes of this subsection, the relevant increment of output, as that term is used in the definition of LRIC in §26.5 of this title (relating to Definitions), shall be the level of output necessary to satisfy total current demand levels for all services using the BNF in question. Adjustments to total service output may be made to reflect the presence of new services for which demand levels can demonstrably be anticipated to increase significantly over the course of six months.

(2) **Relating expenses to BNFs.** The company shall avoid the use of embedded cost data and shall determine expenses consistent with the principles of long run incremental costing.

(A) **Common expenses.** Common expenses that are not directly attributable, using the cost causation principle, to the BNF shall be excluded.

(B) **Nonrecurring expenses.** The expenses of nonrecurring activities shall be separately identified.

(C) **Taxes.** Any tax expenses not directly attributable, using the cost causation principle, shall be excluded from the LRIC study for individual BNFs.

Specifically, taxes associated with the provision of services that use more

than one BNF shall not be included in the BNF LRICs.

- (3) **Least cost technology.** LRIC studies shall assume the use of least cost technology. The choice of least cost technologies, however, shall:
 - (A) be restricted to technologies that are currently available on the market and for which vendor prices can be obtained;
 - (B) be consistent with the level of output necessary to satisfy current demand levels for all services using the BNF in question; and
 - (C) be consistent with overall network design and topology requirements.
- (4) **Network topology.** LRIC studies shall use the existing or planned network topology.
- (5) **Cost of money.** When the company uses the most recent commission approved rate of return for the company, determined either in a rate proceeding as described in §26.201(d)(1) of this title (relating to Cost of Service) or a commission arbitration proceeding, there will be a rebuttable presumption of its reasonableness. The company may use any other forward-looking rate, but shall justify its use. The DCTU is not required to update its filing only to reflect the most recently approved cost of money.
- (6) **Rate of depreciation.** When the company uses the most recent commission approved rate of depreciation for the company there will be a presumption of reasonableness. The company shall justify the use of any other rate.
- (7) **Measure of unit cost.** LRIC studies shall identify the appropriate measure of unit cost for a BNF (e.g., minutes of use, access line). The measure of unit cost chosen

for a BNF shall correspond to the basis upon which the costs of the BNF are incurred. The measure of unit cost may be multidimensional; for example, it may have both time and distance components. In identifying the appropriate measure of unit cost, the company shall ignore the current rate structure for tariffed services using the BNF.

- (8) **Determination of unit cost.** Using the measure of unit cost identified under paragraph (7) of this subsection, the company shall calculate unit cost for the BNF based on the assumption of full capacity utilization of the BNF, which should allow for any spare capacity due to lumpy investments or technical requirements, such as spare capacity needed for testing. The unit cost shall be calculated based on the volume sensitive costs of the BNF and exclude all costs that are volume insensitive (as those terms are defined in §26.5 of this title).
- (9) **Determination of volume insensitive costs.** The company shall calculate the volume insensitive costs (as defined in §26.5 of this title) for the BNF.
- (10) **Cost drivers.** LRIC studies shall identify and account for all relevant cost drivers. LRIC studies for certain BNFs shall at a minimum account for the cost drivers specified below.
 - (A) **Cost drivers for NA channel basic level, NA channel DS-1 level, and NA channel DS-3 level.** The LRICs for these BNFs shall systematically account for variations in costs caused by variations in:
 - (i) the density of a wire center;
 - (ii) the size of a wire center; and

- (iii) the distance.
- (B) **Cost drivers for NA connection basic level, NA connection DS-1 level, and NA connection DS-3 level.** The LRICs for these BNFs shall systematically account for variations in costs caused by variations in:
 - (i) the density of a wire center; and
 - (ii) the size of a wire center.
- (C) **Cost drivers for intraoffice switching and interoffice switching.** The LRICs for these BNFs shall systematically account for variations in costs caused by variations in:
 - (i) the density of a wire center;
 - (ii) the size of a wire center; and
 - (iii) the time of day.
- (D) **Cost drivers for dedicated transport facilities and termination.** The LRICs for these BNFs shall systematically account for variations in costs caused by variations in:
 - (i) the size of a wire center; and
 - (ii) the distance.
- (E) **Cost drivers for switched transport facilities, termination and tandem switching.** The LRICs for these BNFs shall systematically account for variations in costs caused by variations in:
 - (i) the size of a wire center;
 - (ii) the distance; and

(iii) time of day.

(F) **Cost drivers for measurement.** The LRIC for this BNF shall systematically account for variations in costs caused by variations in:

(i) the density of a wire center;

(ii) the size of a wire center;

(iii) the time of day; and

(iv) the duration of a call.

(G) **Cost drivers for operator services.** The LRIC for this BNF shall systematically account for variations in costs caused by variations in the type of operator services calls.

(g) **LRIC studies for tariffed services.** The DCTU shall perform a LRIC study for each tariffed service, except those services for which a waiver has been granted under the workplan approved by the commission. Each LRIC study for a tariffed service shall be calculated as the sum of the costs caused by that service's use of BNFs and any other service specific costs associated with functions not identified as separate BNFs, such as expenses of billing, service specific advertising and marketing, and service specific taxes. Each LRIC study for a tariffed service shall be consistent with the principles described in subsection (d) of this section. Additionally, the company shall use the following instructions in determining the LRIC for individual tariffed services:

(1) **Mapping of BNFs and costs to tariffed services.** The LRIC study shall identify the BNFs that are used in the provision of the tariffed service; the long run incremental costs for the tariffed service shall include the costs associated with

this usage. The costs associated with the service's use of a BNF shall be calculated as the product of the unit cost for the BNF (as determined under subsection (f)(8) of this section) and the demand of the service for that BNF.

- (2) **Identification of other costs.** The LRIC study for an individual tariffed service shall include all service specific costs (e.g., expenses of billing, marketing, customer service or service specific taxes) related to the provision of the service that are not included in the costs for the BNFs.
- (3) **Exclusion of common costs.** The LRIC study for an individual tariffed service shall exclude any costs that are common costs (as defined in subsection (c)(5) of this section). Specifically, the individual LRIC studies for residential and business basic local exchange service, as these services are tariffed on the effective date of this section, shall exclude any volume insensitive costs associated with the use of the network access channel basic level (as defined in subsection (e)(1)(A) of this section) and network access channel connection basic level (as defined in subsection (e)(2)(A) of this section).
- (4) **Relevant increment of output.** For the purposes of this subsection, the relevant increment of output, as that term is used in the definition of LRIC in §26.5 of this title (relating to Definitions), shall be the level of output necessary to satisfy current demand levels for the service. Adjustments to total service output may be made to reflect the presence of new services for which demand levels can demonstrably be anticipated to increase significantly over the course of six months.

- (5) **Relating expenses to services.** The company shall avoid the use of embedded cost data and shall determine expenses consistent with the principles of long run incremental costing.
 - (A) **Common expenses.** Common expenses that are not directly attributable, using the cost causation principle, to the service shall be excluded.
 - (B) **Nonrecurring expenses.** The expenses of nonrecurring activities shall be separately identified.
 - (C) **Taxes.** Any tax expenses not directly attributable, using the cost causation principle, shall be excluded from the LRIC study for individual services.
- (6) **Least cost technology.** LRIC studies shall assume the use of least cost technology. The choice of least cost technologies, however, shall:
 - (A) be restricted to technologies that are currently available on the market and for which vendor prices can be obtained;
 - (B) be consistent with the level of output necessary to satisfy current demand levels for all services using the BNF in question; and
 - (C) be consistent with overall network design and topology requirements.
- (7) **Network topology.** LRIC studies shall use the existing or planned network topology.
- (8) **Cost of money.** When the company uses the most recent commission approved rate of return for the company, determined either in a rate proceeding as described in §26.201(d)(1) of this title (relating to Cost of Service) or a commission arbitration proceeding, there will be a rebuttable presumption of its

reasonableness. The company may use any other forward-looking rate, but shall justify its use. The DCTU is not required to update its filing only to reflect the most recently approved cost of money.

- (9) **Rate of depreciation.** When the company uses the most recent commission approved rate of depreciation for the company there will be a presumption of reasonableness. The company shall justify the use of any other rate.
- (h) **Identification of BNFs and groups of services that share significant common costs and calculation of such common costs.** The company shall identify all instances in which BNFs and groups of services share significant common costs and calculate such common costs.
- (1) **Costs common to BNFs.** The company shall identify and calculate for each subcategory of BNFs and category of BNFs significant costs that are common to BNFs (as defined in subsection (c)(5)(B) of this section). Costs common to BNFs shall only be identified and calculated at the level of subcategories of BNFs and/or categories of BNFs.
- (2) **Costs common to groups of services.** The company shall identify and calculate all significant common costs and the groups of services that share those common costs (as defined in subsection (c)(5)(C) of this section). The calculation of common costs required under paragraphs (1)-(2) of this subsection shall be consistent with the principles described in subsection (d) of this section and the instructions listed below.
- (3) **Relevant increment of output.** When common costs are computed for BNFs or

services, the relevant increment of output, as that term is used in the definition of LRIC in §26.5 of this title (relating to Definitions), shall be the level of output necessary to satisfy current demand levels for the BNFs or the services.

Adjustments to total service output may be made to reflect the presence of new services for which demand levels can demonstrably be anticipated to increase significantly over the course of six months.

- (4) **Expenses.** The company shall avoid the use of embedded cost data and shall determine expenses consistent with the principles of long run incremental costing.
 - (A) **Nonrecurring expenses.** The expenses of nonrecurring activities shall be separately identified.
 - (B) **Taxes.** Any tax expenses not directly attributable, using the cost causation principle, shall be excluded from the cost studies for common costs.
- (5) **Least cost technology.** The studies shall assume the use of least cost technology. The choice of least cost technologies, however, shall:
 - (A) be restricted to technologies that are currently available on the market and for which vendor prices can be obtained;
 - (B) be consistent with the level of output necessary to satisfy current demand levels for the BNFs or services in question; and
 - (C) be consistent with overall network design and topology requirements.
- (6) **Network topology.** Cost studies shall use the existing or planned network topology.
- (7) **Cost of money.** When the company uses the most recent commission approved

rate of return for the company, determined either in a rate proceeding as described in §26.201(d)(1) of this title (relating to Cost of Service) or a commission arbitration proceeding, there will be a rebuttable presumption of its reasonableness. The company may use any other forward-looking rate, but shall justify its use. The DCTU is not required to update its filing only to reflect the most recently approved cost of money.

(8) **Rate of depreciation.** When the company uses the most recent commission approved rate of depreciation for the company there will be a presumption of reasonableness. The company shall justify the use of any other rate.

(i) **LRIC studies for groups of tariffed services that share significant common costs.**

The DCTU shall perform a LRIC study for each group of services identified under subsection (h)(2) of this section. Each group LRIC shall be calculated as the sum of the LRICs (as determined under subsection (g) of this section) for the services in the group and the common costs for those services (as identified under subsection (h)(2) of this section). Each LRIC study shall be consistent with the principles described in subsection (d) of this section. Additionally, the company shall use the following instructions in determining the LRIC for groups of services.

(1) **Relevant increment of output.** When the LRIC is computed for a group of services, the relevant increment of output, as that term is used in the definition of LRIC in §26.5 of this title (relating to Definitions), shall be the level of output necessary to satisfy current demand levels for the services in the group.

Adjustments to total service output may be made to reflect the presence of new

services for which demand levels can demonstrably be anticipated to increase significantly over the course of six months.

- (2) **Relating expenses to groups of services.** The company shall avoid the use of embedded cost data and shall determine expenses consistent with the principles of long run incremental costing.
 - (A) **Common expenses.** Common expenses that are not directly attributable, using the cost causation principle, to the group of services shall be excluded.
 - (B) **Nonrecurring expenses.** The expenses of nonrecurring activities shall be separately identified.
 - (C) **Taxes.** Any tax expenses not directly attributable, using the cost causation principle, shall be excluded from the LRIC study for the group of services.
- (3) **Least cost technology.** LRIC studies shall assume the use of least cost technology. The choice of least cost technologies, however, shall:
 - (A) be restricted to technologies that are currently available on the market and for which vendor prices can be obtained;
 - (B) be consistent with the level of output necessary to satisfy current demand levels for all services using the BNF in question; and
 - (C) be consistent with overall network design and topology requirements.
- (4) **Network topology.** LRIC studies shall use the existing or planned network topology.
- (5) **Cost of money.** When the company uses the most recent commission approved

rate of return for the company, determined either in a rate proceeding as described in §26.201(d)(1) of this title (relating to Cost of Service) or a commission arbitration proceeding, there will be a rebuttable presumption of its reasonableness. The company may use any other forward-looking rate, but shall justify its use. The DCTU is not required to update its filing only to reflect the most recently approved cost of money.

- (6) **Rate of depreciation.** When the company uses the most recent commission approved rate of depreciation for the company there will be a presumption of reasonableness. The company shall justify the use of any other rate.

- (j) **Requirements for subsequent filings of LRIC studies.** The LRIC studies required by this subsection shall be consistent with the principles, instructions and requirements set forth in this section and the workplan approved by the commission and shall be reviewed in accordance with the procedures established in subsection (k) of this section.
 - (1) **Updated studies.** A DCTU may be required to update the filings required by this section, other than the workplan, for those studies where ~~no~~ significant changes have occurred.
 - (2) **Provisions for new BNFs.** When significant technological or other changes occur that necessitate a change in the definition of current BNFs or the identification of new BNFs, the DCTU shall file with the commission and the Office of Public Utility Counsel (OPUC) updated versions for all affected LRIC studies or new studies as appropriate.

- (3) **Provisions for new services.** For each application for a service filed pursuant to this title, the DCTU shall file with the commission and OPUC a LRIC study for the service consistent with the principles described in subsection (d) of this section and the specific requirements set forth in subsection (g) of this section.
- (4) **Unbundling of existing tariffed services.** When an application filed pursuant to this title proposes a service that previously had been bundled with other BNFs into a tariffed service, the DCTU shall carefully reexamine the identification of groups of services that share significant common costs (as required under subsection (h) of this section). If the new service significantly changes the identification of groups of services and the identification of common costs, the DCTU should update all studies required under this section that are affected by these changes.
- (k) **Review process for LRIC studies.** A LRIC study considered under this section shall be reviewed administratively to determine whether the DCTU's LRIC study is consistent with the principles, instructions and requirements set forth in this section.
- (1) **Sufficiency.** The LRIC study shall be examined for sufficiency. To be sufficient, the LRIC study shall conform to the prototype studies developed under the workplan approved by the commission. If the presiding officer or the commission staff concludes that material deficiencies exist in the LRIC study, the DCTU shall be notified within 15 days of the filing date of the specific deficiency in its LRIC study. The DCTU shall have 15 days from the date it is notified of the deficiency

to file a corrected LRIC study.

(2) **Time schedule.**

- (A) No later than 45 days after the filing date of the sufficient LRIC study, any party that demonstrates a justiciable interest may file with the presiding officer written comments or recommendations concerning the LRIC study.
- (B) No later than 55 days after the filing date of the sufficient LRIC study, OPUC may file with the presiding officer written comments or recommendations concerning the LRIC study.
- (C) No later than 65 days after the filing date of the sufficient LRIC study, the commission staff shall file with the presiding officer written comments or recommendations concerning the LRIC study.
- (D) No later than 75 days after the filing date of the sufficient LRIC study, any party that demonstrates a justiciable interest, OPUC, or the DCTU may file with the presiding officer a written response to the commission staff's recommendation.
- (E) No later than 85 days after the filing date of the sufficient LRIC study, the presiding officer shall complete an administrative review to determine whether the DCTU's LRIC study is consistent with the principles, instructions and requirements set forth in this section. The presiding officer shall approve the LRIC study or order the DCTU to refile the LRIC study incorporating all modifications recommended by the presiding officer.

- (F) Any party may appeal to the commission an administrative determination by a presiding officer within five days after the date of notification of the determination. The commission shall rule on the appeal within 30 days after the date it receives the appeal. If the commission or a presiding officer orders a cost study to be changed, the dominant certificated telecommunications utility shall be ordered to make those changes within a period that is commensurate with the complexity of the LRIC study.
- (3) **Requests for information.** While the LRIC study is being administratively reviewed, the commission staff, OPUC, and any party that demonstrates a justiciable interest may submit requests for information to the DCTU. Three copies of all answers to such requests for information shall be provided within ten days after receipt of the request by the DCTU to the commission staff, OPUC and any party that demonstrates a justiciable interest.
- (4) **Suspension.** At any point within the first 45 days of the review process, the presiding officer, the commission staff, OPUC, the DCTU, or any party that demonstrates a justiciable interest may request that the review process be suspended for 30 days. The presiding officer may grant a request for suspension only if he or she has determined that the party has demonstrated that good cause exists for such suspension.
- (5) **Effective date of the LRIC study.** The effective date of the LRIC study shall be the date it is approved by the presiding officer.

- (1) **Notice requirements.** At least ten days before a DCTU files any workplan or LRIC study pursuant to this section, the DCTU shall file with the commission and OPUC a notice of its intent to file such workplan or LRIC study and the expected filing date. The DCTU's notice shall indicate that the filing is being made pursuant to this section. The commission shall then publish notice of the DCTU's intent to file the workplan or LRIC study in the Texas Register.

This agency hereby certifies that the rule, as adopted, 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 rule §26.215 is hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 16th DAY OF JULY 1999.

PUBLIC UTILITY COMMISSION OF TEXAS

Chairman Pat Wood, III

Commissioner Judy Walsh

Commissioner Brett A. Perlman