

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter C. INFRASTRUCTURE AND RELIABILITY.

§26.57. Requirements for a Certificate Holder's Use of an Alternate Technology to Meet its Provider of Last Resort Obligation.

- (a) **Purpose.** This section establishes the requirements that apply when a certificate holder uses an alternate technology to meet its provider of last resort (POLR, sometimes also referred to as a carrier of last resort in other parts of this chapter) obligations.
- (b) **Definitions.** The following terms used in this section shall have the following meanings, unless the context indicates otherwise.
- (1) **Alternate technology** -- a technology other than traditional wireline or landline technologies.
 - (2) **Certificate holder** -- a holder of a certificate of convenience and necessity or a certificate of operating authority.
- (c) **Application of this section.** A certificate holder may use an alternate technology to meet its POLR obligations only after the commission approves the use of that alternate technology by the certificate holder pursuant to this section. A certificate holder must obtain approval for each type of alternate technology used to meet its POLR obligations. Unless determined otherwise by the commission, upon receiving approval to use an alternate technology to meet its POLR obligations, a certificate holder may use that technology anywhere in its service territory to meet its POLR obligations. If, as of the effective date of this rule, a certificate holder has deployed an alternate technology to meet its POLR obligations and obtained commission approval for that alternate technology, the certificate holder is not required to obtain approval for that alternative technology pursuant to this section unless it seeks changes to what was approved by the commission.
- (d) **Standards for meeting POLR obligations using an alternate technology.** In using an alternate technology to meet its POLR obligations, a certificate holder shall comply with the following standards.
- (1) **Quality of service.** Unless determined otherwise by the commission, the certificate holder shall meet applicable minimum quality of service standards comparable to the following requirements.
 - (A) §26.52 of this title (relating to Emergency Operations);
 - (B) §26.53 of this title (relating to Inspections and Tests); and
 - (C) §26.54 of this title (relating to Service Objectives and Performance Benchmarks).
 - (2) **911 Service.** The certificate holder shall meet the following 911 service requirements.
 - (A) A certificate holder shall provide 911 services comparable to the requirements established for traditional wireline or landline technologies; and
 - (B) A certificate holder providing 911 service to a fixed location shall include validated address location as part of the Automatic Location Identification.
 - (3) **Price.** The service provided by the certificate holder to meet its POLR obligations in an exchange shall be offered at a price comparable to the monthly service charge for comparable services in that exchange or in the certificate holder's nearest exchange.
- (e) **Application to meet its POLR obligations using an alternate technology.** A certificate holder shall file a detailed application demonstrating that the certificate holder meets the standards set forth in subsection (d) of this section.

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- (f) **Commission processing of application.**
- (1) **Notice.**
 - (A) The commission shall provide notice in the *Texas Register*.
 - (B) Not later than two working days after filing an application, the applicant shall notify the Commission on State Emergency Communications by providing it a copy of the application.
 - (C) The applicant shall provide additional notice as required by the commission.
 - (2) **Sufficiency of application.** A motion to find an application materially deficient shall be filed no later than 15 working days after an application is filed. The motion shall be served on the applicant such that the applicant receives it by the day after it is filed. The motion shall specify the nature of the deficiency and the relevant portions of the application, and cite the particular requirement with which the application is alleged not to comply. The applicant's response to a motion to find an application materially deficient shall be filed no later than five working days after such motion is received. If within 26 working days after the filing of the application, the presiding officer has not filed a written order concluding that material deficiencies exist in the application, the application is deemed sufficient. The presiding officer shall notify the parties of any material deficiencies by written order and the applicant must cure the deficiencies within 30 days of receipt of the order.
 - (3) **Review of application.** If the requirements of §22.35 of this title (relating to Informal Disposition) are met, the presiding officer shall issue a notice of approval or proposed order within 60 days of the date a materially sufficient application is filed unless good cause exists to extend this deadline. If the requirements of §22.35 of this title are not met, the presiding officer shall establish a procedural schedule that provides for the resolution of the issues in the proceeding.