

The Public Utility Commission of Texas (commission) proposes new §26.109 relating to Standards for Granting of Certificates of Operating Authority (COAs), §26.111 relating to Standards for Granting of Service Provider Certificates of Operating Authority (SPCOAs), and §26.113 relating to Amendment of Certificates of Operating Authority (COA) or Service Provider Certificates of Operating Authority (SPCOA). Project Number 19582 has been assigned to this proceeding. The proposed sections will replace §23.38 of this title (relating to Standards for Granting of Certificates of Operating Authority and Service Provider Certificates of Operating Authority). The proposed sections establish commission rules for implementing the Public Utility Regulatory Act (PURA), Chapter 54, Subchapters C and D. The proposed sections will establish financial and technical standards for the award of certificates of operating authority and service provider certificates of operating authority and will establish the procedure for amending certificates of operating authority and service provider certificates of operating authority.

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 duplicative sections of Chapter 23 will be proposed for repeal as each new section is proposed for publication in the new chapter.

General changes to rule language:

The proposed new sections reflect different section, subsection, and paragraph designations due to the reorganization of the rules. Citations to the Public Utility Regulatory Act have been updated to conform to the Texas Utilities Code throughout the sections and citations to other sections of the commission's rules have been updated to reflect the new section designations. Some text has been proposed for deletion as unnecessary in the new sections because the dates and requirements in the text no longer apply due to the passage of time and/or fulfillment of the requirements. The *Texas Register* will publish these sections as all new text. Persons who desire a copy of the proposed new sections as they reflect changes to the existing section in Chapter 23 may obtain a redlined version from the commission's Central Records under Project Number 19852. Section 23.38(c) applies only to COAs and is therefore not included in the redline of

§26.111 which applies only to SPCOAs; §23.38(d) applies only to SPCOAs and is therefore not included in the redline of §26.109 which applies only to COAs. Proposed §26.113 is redlined only to existing §23.38(g).

Other changes specific to each section:

Proposed new §26.109 will replace §23.38(a), (b), (c), (e) and (f) as they relate to Certificates of Operating Authority. Proposed new §26.111 will replace §23.38(a), (b), (d), (e) and (f) as they relate to Service Provider Certificates of Operating Authority. Proposed new §26.113 will replace §23.38(g) as it relates to both COAs and SPCOAs.

The following defined terms in existing §23.38(b) have not been included in proposed new §26.109 or §26.111 as these definitions were moved to §26.5 of this title (relating to Definitions): "affiliate", "assumed name", "capitalization", "corporate name", "geographic scope", "incumbent local exchange company (ILEC)", "SPCOA reseller", "return on assets", and "working capital requirements". The acronyms "COA" and "SPCOA" are explained in the text of the sections and are not included in the definitions. The term "telecommunications facilities" has been deleted, as it is not used in the sections. The terms "capital expenditures" and "control" have been deleted because they are standard definitions, which are not necessary to understand the rule.

Proposed new §26.109(b)(1) and §26.109(b)(1)(F) - (J) have deleted references to the COA build-out requirements and the limitation of 31,000 access lines as preempted by the Order FCC 97-346 on September 26, 1997. Proposed new §26.109(b)(1)(C)(iii) and §26.111(b)(1)(C)(iii) have been added to clarify that the complaint histories shall include the type of complaint, status of complaints, resolution of complaints and number of customers in each state where the complaints occurred. Proposed new §26.109(b)(1)(D) and §26.111(b)(1)(D) have been added to clarify what the quality of service standards shall include. Proposed new §§ 26.109(d)(1)(C), 26.111(d)(1)(C), and 26.113(a)(1)(B) have been added to review the requested name of a utility for deceptive, misleading or vague implications before granting certification. Proposed new §26.109(e) and §26.111(e) have been added to establish reporting requirements for COA and SPCOA holders. Proposed new §26.111(b)(2)(H) has been added to allow data-only SPCOA providers a waiver from 911 and local number portability compliance as related to voice services.

Proposed new §26.113(a)(1)(A) has been added to allow the commission to grant approval of simple name changes on an administrative basis. Proposed new §26.113(a)(3) has been added to clarify when a utility is required to file an amendment relating to selling, transferring, assigning, or leasing an SPCOA or COA certification. Proposed new §26.113(e) has been added to establish the standards for discontinuing optional services or relinquishing a certification.

Questions for parties who comment on the proposed rule: (1) What language should be adopted in §26.113 to clarify the commission's policy of granting a certificate in only one name, consistent with §26.109(d)(1) and §26.111(d)(1)?

Christopher Green, Assistant General Counsel, Office of Regulatory Affairs, 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.

Christopher Green 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 rules that enable the commission to better protect the public interest against entities that are not qualified to provide basic local exchange telephone service, basic local telecommunications service, and switched access service, while encouraging the development of a competitive marketplace for local exchange telecommunications services. There will be no effect on small businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Christopher Green has also determined that the proposed new sections should not affect 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 May 11, 1999, at 10:00 a.m.

Comments on the proposed new sections (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. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. The commission also invites specific comments regarding the Section 167 requirement as to whether the reason for adopting or readopting the rule continues to exist. All comments should refer to Project Number 19582.

These new sections are proposed 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 §§54.102-54.111, which grant the commission authority to determine the criteria for financial and technical qualifications of applicants for certificates of operating authority, and PURA §§54.152-54.159, which grant the commission authority to determine the criteria for financial and technical qualifications of applicants for service provider certificates of operating authority.

Cross-Index to Statutes: Public Utility Regulatory Act §14.002, §§54.102-54.111, and §§54.152-54.159.

§26.109. Standards for Granting of Certificates of Operating Authority (COAs).

(a) **Scope and purpose.** This section applies to the certification of persons and entities to provide basic local exchange telephone service, basic local telecommunications service, and switched access service as holders of certificates of operating authority established in the Public Utility Regulatory Act, Chapter 54, Subchapter C. Through this section, the commission strives to protect the public interest against entities that are not qualified to provide basic local exchange telephone service, basic local telecommunications service, and switched access service, while also encouraging the development of a competitive marketplace for local exchange telecommunications services that is free of unreasonable barriers to entry that restrict or impede the development of a market that will provide consumers with the best services at the lowest cost.

(b) **Standards for granting certification to COA applicants.**

(1) The commission shall consider the factors listed in subparagraphs (A) – (E) of this paragraph in deciding whether to grant a COA to an applicant proposing to serve an exchange of an incumbent local exchange company (ILEC).

(A) Whether the applicant has satisfactorily provided all of the information required in the Application for a Certificate of Operating Authority.

(B) Whether the applicant is financially qualified to be a facilities-based local service provider. To prove financial qualification as a facilities-based utility, an applicant shall provide evidence sufficient to establish that:

- (i) Applicant possesses the greater of \$100,000 cash or cash equivalent or sufficient cash or cash equivalent to meet start up expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's startup expenses, working capital requirements and capital expenditures for the first two years of Texas operations; or
- (ii) Applicant is an established business entity and is able to demonstrate evidence of profitability in existing operations for two years preceding the date of application by submitting a balance sheet and income statement audited or reviewed by a certified public accountant establishing all of the following:
 - (I) A long-term debt to capitalization ratio of less than 60%;
 - (II) A return-on-assets ratio of at least 10%; and,
 - (III) The greater of \$50,000 cash or cash equivalent or sufficient cash or cash equivalent to meet startup expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's startup expenses, working capital requirements and capital expenditures for a minimum of the first two years of Texas operations.
- (C) Whether the applicant is technically qualified. The commission shall determine whether an applicant possesses sufficient technical

qualifications to be awarded a COA based upon a review of the following information.

- (i) Prior experience by the applicant or one or more of the applicant's principals or employees in the telecommunications industry or a related industry.
- (ii) Any complaint history regarding the applicant, applicant's affiliates, predecessors in interest, shareholders, and principals on file at the Public Utility Commission of Texas.
- (iii) Any complaint history regarding the applicant, applicant's affiliates, predecessors in interest, shareholders, and principals with Public Utility Commissions or Public Service Commissions in other states where the applicant is doing business. The complaint history shall include, but not be limited to, the type of complaint, status of complaint, resolution of complaint and the number of customers in each state where complaints occur.
- (iv) Any complaint history regarding the applicant, applicant's affiliates, predecessors in interest, shareholders, and principals on file with the Office of the Texas Attorney General and the Attorney General in other states where the applicant is doing business.
- (v) The compliance record of the applicant, applicant's affiliates, predecessors in interest, shareholders, and principals at the Texas Comptroller's Office.

- (vi) The compliance record of the applicant, applicant's affiliates, predecessors in interest, shareholders, and principals at the Public Utility Commission of Texas.
 - (D) Whether the applicant is able to meet the commission's quality of service standards. Quality of service standards shall include, but not be limited to, 911 compliance, local number portability capability and Y2K compliance of all telecommunications equipment.
 - (E) Whether certification of the applicant is in the public interest.
 - (2) If, after considering the factors in this subsection, the commission finds it to be in the public interest to do so, the commission may limit the geographic scope of the COA.
- (c) **Financial instruments that will meet the cash requirements established in this section.**
- (1) Applicants for COAs shall be permitted to use any of the financial instruments set out in subparagraphs (A)-(F) of this paragraph to satisfy the cash requirements established in this rule to prove financial qualification.
 - (A) Cash or cash equivalent, including cashier's check or sight draft.
 - (B) A certificate of deposit with a bank or other financial institution.
 - (C) A letter of credit issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission.

- (D) A line of credit or other loan, issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission and payable on an interest-only basis for the same period.
 - (E) A loan issued by a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission, and payable on an interest-only basis for the same period.
 - (F) A guaranty issued by a shareholder or principal of applicant, a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond the certification of the applicant by the commission.
- (2) To the extent that the applicant relies upon a loan or guaranty provided in paragraph (1)(E) or (F) of this subsection, the applicant shall provide evidence sufficient to establish that the lender or guarantor possesses sufficient cash or cash equivalent to fund the loan or guaranty.
 - (3) All cash and instruments listed in paragraph (1) (A) - (F) of this subsection shall be unencumbered by pledges as collateral and shall be subject to verification and review by the commission prior to certification of the applicant and for a period of 12 months beyond the date of certification of the applicant by the commission. Failure to comply with this requirement may void an applicant's certification or result in such other action as the commission deems in the public interest,

including, but not limited to, assessment of reasonable penalties and all other available remedies under the Public Utility Regulatory Act.

(d) **Name on certificates.**

- (1) All basic local exchange telephone service, basic local telecommunications service, and switched access service provided under a COA shall be provided in the name under which certification was granted by the commission. The commission shall grant the certificate in only one name.
 - (A) If the applicant is a corporation, the commission shall issue the certificate in the corporate or assumed name of the applicant.
 - (B) If the applicant is an unincorporated business entity or an individual, the commission shall issue the certificate in the assumed name of the entity or the individual.
 - (C) Commission staff shall review the requested name to determine if the name is deceptive, misleading, vague, inappropriate, or duplicative of an existing certificated telecommunications utility. If the staff determines that the requested name is deceptive, misleading, vague, inappropriate, or duplicative, it shall notify the applicant and the applicant shall modify the name to alleviate the staff's concerns. If the name is not adequately modified, the application may be denied.

- (2) The holder of a COA may request commission approval to change the name on the certificate by filing an application to amend its certificate with the commission.

(e) **Reporting requirements**

- (1) All COA holders shall file updated information set forth in paragraph (2) of this subsection on an annual basis, by June 30 of each year.
- (2) Annual reportable information shall consist of, but not be limited to the following:
 - (A) Changes in addresses, telephone numbers, authorized contacts and other information for contacting COA holders in Project Number 19421, *Notification of Changes in Address, Contact Representative, and/or Telephone Numbers, Pursuant to P.U.C. Substantive Rule §26.89;*
 - (B) A description of the type(s) of communications services being provided and the exchanges in which the services are being provided.

§26.111. Standards for Granting of Service Provider Certificates of Operating Authority (SPCOAs).

(a) **Scope and purpose.** This section applies to the certification of persons and entities to provide basic local exchange telephone service, basic local telecommunications service, and switched access service as holders of service provider certificates of operating authority, established in the Public Utility Regulatory Act, Chapter 54, Subchapter D. Through this section, the commission strives to protect the public interest against entities that are not qualified to provide basic local exchange telephone service, basic local telecommunications service, and switched access service, while also encouraging the development of a competitive marketplace for local exchange telecommunications services that is free of unreasonable barriers to entry that restrict or impede the development of a market that will provide consumers with the best services at the lowest cost.

(b) **Standards for granting certification to SPCOA applicants.**

(1) The commission may condition or limit the scope of a SPCOA's service in at least the following ways:

- (A) Facility-based;
- (B) Resale-only;
- (C) Data-only;

- (D) Geographic scope;
 - (E) Some combination of the above, as appropriate.
- (2) The commission shall consider the following factors in deciding whether and how to condition or limit a SPCOA:
- (A) Whether the applicant has satisfactorily provided all of the information required in the application for a SPCOA.
 - (B) Whether the applicant is financially qualified as a facilities-based SPCOA. To prove financial qualifications as a facilities-based SPCOA, the applicant shall meet the standards set forth in §26.109(b)(1)(B) of this title (relating to Standards for Granting Certificates of Operating Authority).
 - (C) Whether the applicant is financially qualified as a resale-only SPCOA. To prove financial qualifications as a resale-only SPCOA, an applicant shall provide evidence sufficient to establish that:
 - (i) Applicant possesses the greater of \$25,000 cash or cash equivalent or sufficient cash or cash equivalent to meet startup expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's startup expenses, working capital requirements and capital expenditures for the first year of Texas operations; or
 - (ii) Applicant is an established business entity and is able to demonstrate evidence of profitability in existing operations for two years preceding the date of application by submitting a balance

sheet and income statement audited or reviewed by a certified public accountant establishing all of the following:

- (I) A long-term debt to capitalization ratio of less than 60%;
 - (II) A return-on-assets ratio of at least 10%; and,
 - (III) The greater of \$10,000 cash or cash equivalent or sufficient cash or cash equivalent to meet startup expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's startup expenses, working capital requirements and capital expenditures for the first year of Texas operations.
- (D) Whether the applicant is technically qualified. The commission shall determine whether an applicant possesses sufficient technical qualifications to be awarded a facilities-based SPCOA certification or whether applicant should be restricted to a resale-only SPCOA certification, based upon a review of the following information.
- (i) Prior experience by the applicant or one or more of the applicant's principals or employees in the telecommunications industry or a related industry.
 - (ii) Any complaint history regarding the applicant, applicant's affiliates, predecessors in interest, shareholders, and principals on file at the Public Utility Commission of Texas, the Texas Attorney General, or with the Public Utility Commissions, Public Service

Commissions, or Attorneys General in other states where the applicant is doing business. The complaint history shall include, but not be limited to, the type of complaint, status of complaint, resolution of complaint, and the number of customers in each state where complaints have occurred.

(iii) The compliance record of the applicant, applicant's affiliates, predecessors in interest, shareholders, and principals at the Texas Comptroller's Office.

(iv) The compliance record of the applicant, applicant's affiliates, predecessors in interest, shareholders, and principals at the Public Utility Commission of Texas.

(E) Whether the applicant is able to meet the commission's quality of service standards. The quality of service standards shall include, but not be limited to, 911 compliance, local number portability capability and Y2K compliance of all telecommunications equipment.

(F) Whether certification of the applicant is in the public interest.

(G) Whether the applicant, together with affiliates, had in excess of 6.0% of the total intrastate switched access minutes of use as measured by the most recent 12-month period preceding the filing of the application for which data is available.

(H) Whether the applicant has limited its operation to data-only services. If the applicant is limited to data-only services, the applicant will be eligible

for a data-only SPCOA, and the applicant shall be waived from 911 and local number portability compliance as related to switched voice services. If the applicant intends to add voice services at a future date, the applicant must first file an amendment, subject to approval of the commission, which shows that the applicant is in compliance with all of the commission's quality of service standards.

- (3) If, after considering the factors in this subsection, the commission finds it to be in the public interest to do so, the commission may limit the geographic scope of the SPCOA.

(c) **Financial instruments that will meet the cash requirements established in this section.**

- (1) Applicants for SPCOAs shall be permitted to use any of the financial instruments set out in subparagraphs (A)-(F) of this paragraph to satisfy the cash requirements established in this rule to prove financial qualification.
 - (A) Cash or cash equivalent, including cashier's check or sight draft.
 - (B) A certificate of deposit with a bank or other financial institution.
 - (C) A letter of credit issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission.
 - (D) A line of credit or other loan, issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond

certification of the applicant by the commission and payable on an interest-only basis for the same period.

(E) A loan issued by a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission, and payable on an interest-only basis for the same period.

(F) A guaranty issued by a shareholder or principal of applicant, a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond the certification of the applicant by the commission.

(2) To the extent that the applicant relies upon a loan or guaranty provided in paragraph (1)(E) or (F) of this subsection, the applicant shall provide evidence sufficient to establish that the lender or guarantor possesses sufficient cash or cash equivalent to fund the loan or guaranty.

(3) All cash and instruments listed in paragraph (1) (A) - (F) of this subsection shall be unencumbered by pledges as collateral and shall be subject to verification and review by the commission prior to certification of the applicant and for a period of 12 months beyond the date of certification of the applicant by the commission. Failure to comply with this requirement may void an applicant's certification or result in such other action as the commission deems in the public interest, including, but not limited to, assessment of reasonable penalties and all other available remedies under the Public Utility Regulatory Act.

(d) **Name on certificates.**

- (1) All basic local exchange telephone service, basic local telecommunications service, and switched access service provided under an SPCOA shall be provided in the name under which certification was granted by the commission. The commission shall grant the certificate in only one name.
 - (A) If the applicant is a corporation, the commission shall issue the certificate in the corporate or assumed name of the applicant.
 - (B) If the applicant is an unincorporated business entity or an individual, the commission shall issue the certificate in the assumed name of the entity or the individual.
 - (C) Commission staff shall review the requested name to determine if the name is deceptive, misleading, vague, inappropriate, or duplicative of an existing certificated telecommunications utility. If the staff determines that the requested name is deceptive, misleading, vague, inappropriate, or duplicative, it shall notify the applicant and the applicant shall modify the name to alleviate the staff's concerns. If the name is not adequately modified, the application may be denied.
- (2) The holder of an SPCOA may request commission approval to change the name on the certificate by filing an application to amend its certificate with the commission.

(e) **Reporting requirements.**

- (1) All SPCOA holders shall file updated information set forth in paragraph (2) of this subsection on an annual basis, by June 30 of each year.
- (2) Annual reportable information shall consist of, but not be limited to the following:
 - (A) Changes in addresses, telephone numbers, authorized contacts and other information for contacting SPCOA holders in Project Number 19421, *Notification of Changes in Address, Contact Representative, and/or Telephone Numbers, Pursuant to P.U.C. Substantive Rule §26.89;*
 - (B) A description of the type(s) of communications services being provided and the exchanges in which the services are being provided.

**§26.113. Amendment of Certificate of Operating Authority (COA) or Service
Provider Certificate of Operating Authority (SPCOA).**

(a) A person or entity granted a COA or an SPCOA by the commission shall be required to file an application to amend the COA or an SPCOA on a commission approved form in order to:

(1) **Change the corporate name or assumed name of the certificate holder.**

(A) Name change amendments may be granted on an administrative basis, if the holder is in compliance with §26.109(b)(1)(C) of this title (relating to Standards for Granting Certificates of Operating Authority) or §26.111(b)(2)(C) of this title (relating to Standards for Granting Service Provider Certificates of Operating Authority), and no hearing is requested.

(B) Commission staff shall review the requested name to determine if the name is deceptive, misleading, vague, inappropriate, or duplicative of an existing certificated telecommunications utility. If the staff determines that the requested name is deceptive, misleading, vague, inappropriate, or duplicative, it shall notify the applicant and the applicant shall modify the name to alleviate the staff's concerns. If the name is not adequately modified, the amendment may be denied.

(2) Change the geographic scope of the COA or SPCOA;

- (3) Sell, transfer, assign, or lease a controlling interest in the COA or the SPCOA or sell, transfer, or lease a controlling interest in the entity holding the COA or the SPCOA.
 - (4) Remove the resale-only restriction on a resale-only SPCOA certificate.
 - (5) Remove the data-only restriction on a data-only SPCOA certificate.
- (b) If a COA holder sells, merges, assigns, or leases its certificate or the entity holding the certificate to an SPCOA holder with an identical geographic scope, the surviving entity shall hold a COA certificate and shall have all the obligations of a COA holder set forth under state and federal law; the surviving entity shall also notify the commission within 30 days of the sale, merger, assignment, or lease.
- (c) If the application to amend is for a name change of the certificate holder and is not a sale, transfer, assignment, or lease of the COA or the SPCOA or a sale, transfer, or lease of the entity holding the COA or the SPCOA, applicant will be required to provide a general description of the applicant, including the following:
- (1) Legal name and all assumed names of the entity to which the commission issued the certificate.
 - (2) All other assumed names, if any, under which the certificate holder does business.
 - (3) Certificate number of the COA or SPCOA.
 - (4) Address and telephone number of the principal office of certificate holder.

- (5) Name, address, and office location of each partner, officer, and the five largest shareholders of certificate holder.
 - (6) Proposed amendment to legal name or assumed name of certificate holder.
- (d) If the application to amend requests any change other than a name change, the commission shall consider the factors set forth in §26.109 of this title and §26.111 of this title in determining whether to approve the amendment to the certificate.
- (e) **Standards for discontinuing optional services or relinquishing certifications.**
- (1) Utility discontinuing optional services or relinquishing an SPCOA or COA certification shall comply with PURA §54.253. Notification to the commission shall consist of filing an amendment, which provides the following information:
 - (A) Name, address, and phone number of utility;
 - (B) SPCOA or COA number being discontinued or relinquished;
 - (C) Commission docket number in which the SPCOA or COA was granted;
 - (D) A sworn statement stating the authority to discontinue service or relinquish certification, notification of customers, and that the information provided in the amended application is true and correct;
 - (E) Notification to each customer.
 - (i) The notification letter shall clearly state the intent of the utility to either cease an optional service or cease operations and a copy of the letter shall be provided to the commission;

- (ii) The notification letter shall give customers a minimum of 60 days notice of relinquishment of certification or discontinuation of optional services;
 - (iii) The notification letter shall inform customers of the carrier of last resort or make other arrangements to provide service as approved by the customers.
 - (2) All customer deposits and credits shall be returned within 60 days of notification to relinquish certification;
 - (3) Any switchover fees that will be charged to affected customers shall be paid by the utility relinquishing the certification;
 - (4) The relinquishing utility shall maintain operations until it has obtained commission authorization to cease operations or services. Upon receiving commission authorization to cease operations, the relinquishing utility shall void its existing interconnection agreement(s).
- (f) No later than five days after filing an application to amend, the applicant shall notify the Advisory Commission on State Emergency Communications and all affected 9-1-1 entities by providing a copy of the application to amend.

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 22nd DAY OF MARCH 1999 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**