

The Public Utility Commission of Texas (commission) proposes new §26.124, relating to Pay-Per-Call Information Services Call Blocking. The proposed new section will replace §23.58 of this title (relating to Pay-Per-Call Information Services Call Blocking). This section will require all dominant certificated telecommunications utilities (DCTUs), upon request, to block access to all pay-per-call information services when a call is placed to a 1-900-XXX-XXXX or 976-XXXX number (or any other pay-per-call service number). Project Number 17709 has been assigned to this proceeding.

The Appropriations Act of 1997, HB 1, Article IX, Section 167 (Section 167) requires that each state agency review and consider for re adoption 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 re adopting 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 section reflects 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 this section as all new text. Persons who desire a copy of the proposed new section as it reflects changes to the existing section in Chapter 23 may obtain a redlined version from the commission's Central Records under Project Number 17709.

Other changes specific to each section:

Subsection (a) of §23.58 has not been included in proposed new §26.124 because the definition for "pay-per-call information services" defined in subsection (a) has already been incorporated into §26.5 of this title (relating to Definitions). (As seen in subsections (a) and (b), however, the commission is proposing that free blocking be required to be offered to "any other pay-per-call

service number,” in addition to the 1-900-XXX-XXXX and 976-XXXX numbers specified in the definition in §26.5.) Paragraph (b)(2) of §23.58 has not been included in new §26.124 because it is no longer relevant. Subsection (g) of §23.58 has not been included in new §26.124 as this subsection is unnecessary due to §26.3 of this title (relating to Severability) which applies to all of Chapter 26.

The commission also is proposing to clarify the meaning of the first sentence in new subsection (c), Mandatory Blocking, by adding the words “on a selective, per-line basis,” so that the new sentence would read as follows: “In areas where restricting access to pay-per-call information services on a selective, per-line basis is not technically possible, all access to the pay-per-call information services must be blocked.”

Mr. James Ezell, Attorney, 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.

Mr. Ezell 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 to continue to allow telephone subscribers to prevent unauthorized and expensive calls from being made from their telephones. There will be no effect on small businesses or micro-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.

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

Comments on the proposed new rule (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. 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 17709 - §26.124, Pay-Per-Call Information Services Call Blocking.

This new section is 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 §52.002(a), which grants the commission authority to ensure the adequacy and efficiency of services provided by a telecommunications utility, and §55.002(1),

which authorizes the commission to adopt just and reasonable rules and practices a public utility must follow in furnishing a service.

Cross-Index to Statutes: Public Utility Regulatory Act §§14.002, 52.002, and 55.002.

§26.124. Pay-Per-Call Information Services Call Blocking.

- (a) **Free blocking.** Within 90 days of being declared a dominant carrier, all dominant certificated telecommunications utilities (DCTUs) are required, upon request, to block access to all pay-per-call information services when a call is placed to a 1-900-XXX-XXXX or 976-XXXX number or any other pay-per-call service number. There will be no charge to the end-user for the first blocking request. However, there may be a non-recurring charge applicable for subsequent blocking requests.
- (b) **Subscription to blocking.** The request of the end-user shall be determined in the following method:
- (1) **End-users not currently receiving blocking.** In order to restrict access to pay-per-call information services, end-users must order blocking either orally or by means of a written ballot. Within 60 days of being declared a DCTU, each DCTU must notify its end-users of the upcoming free blocking and send a post-paid ballot to all existing end-users (either through bill inserts or a separate mailing) allowing them to choose whether they want to restrict access to pay-per-call information services.
 - (2) New end-users must be polled at the time of their service order as to whether they want access to pay-per-call information services. There will be no charge to the end-user for the first blocking request, but there may be a non-recurring charge applicable for subsequent blocking requests.

- (3) End-users electing not to restrict access to pay-per-call information services will have access to all pay-per-call information services (900 and 976 services and any other pay-per-call services) available in their service area.
- (c) **Mandatory blocking.** In areas where restricting access to pay-per-call information services on a selective, per-line basis is not technically possible, all access to the pay-per-call information services must be blocked.
 - (1) End-users whose access to pay-per-call information services is blocked pursuant to this provision shall be notified prior to the time of the blocking that such blocking will take place, the fact that such blocking is being done pursuant to this section, and that such blocking is required due to the fact that restriction of access to such services is not technically possible at that time.
 - (2) Once an area that has been mandatorily blocked attains the capability to provide blocking, the DCTU shall provide the notice and balloting procedures set out in subsections (a) and (b) of this section, and such requests received by the DCTU from the end-user shall thereafter be treated as an initial blocking request.
- (d) **Disconnection.** DCTUs may not disconnect an end-user's local telephone service for nonpayment of charges for pay-per-call information service. DCTUs may implement involuntary blocking of pay-per-call information service for nonpayment of charges for pay-per-call information service.

- (e) **Compliance.** Within 45 days of being declared a DCTU, each DCTU shall file tariffs in compliance with this section. The compliance tariffs will be reviewed by staff. Within 35 days of the date of filing of the tariffs, the tariffs will either be approved or the effective date of the tariff will be suspended for further review.

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 3rd DAY OF SEPTEMBER, 1999 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**