

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter J. COSTS, RATES AND TARIFFS.

§26.208. General Tariff Procedures.

- (a) **Application.** This section applies to dominant certificated telecommunications utilities (DCTUs) as defined by §26.5 of this title (relating to Definitions).
- (b) **Purpose.** The procedures outlined in this section establish a process for the review of DCTU tariff applications.
- (c) **Content of public notice.** The DCTU shall include public notice plans in its application to the commission. Notices shall be written in plain language and shall contain sufficient detail to give customers and affected parties adequate notice of the filing. The presiding officer may require notice to be provided to the public in addition to that proposed by the DCTU. Public notice of the application shall include at a minimum:
 - (1) a description of the proposed service and rates;
 - (2) the proposed effective date of the service or, if the service is promotional or experimental, the time period during which the promotional rates are proposed to be in effect;
 - (3) the types of customers likely to be affected if the application is approved;
 - (4) the probable effect on the DCTU's revenues if the service is approved;
 - (5) and the following language: "Persons with questions or who want more information on this application may contact (DCTU name) at (DCTU address) or call (DCTU toll-free telephone number) during normal business hours. A complete copy of the application is available for inspection at the address listed above. The commission has assigned Control Number (provided by DCTU) to this application. Persons who wish to formally participate in the commission's proceedings concerning this application, or who wish to express their comments concerning this application should contact the Public Utility Commission of Texas, Office of Customer Protection, PO Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission's Office of Customer Protection at (512) 936-7120 or, toll free, at (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or reach the commission's toll free number through Relay Texas at (800) 735-2988. Requests to participate in the proceedings and comments should reach the commission no later than (date, ten days before the effective date of the proposed filing)."
- (d) **Proof of notice.** Not less than ten days before the effective date of the application, the DCTU shall file a statement indicating the date on which all notice provided to the public was completed and proof of such notice.
- (e) **Administrative review.** An application filed pursuant to §26.207 of this title (relating to Form and Filing of Tariffs), §26.209 of this title (relating to New and Experimental Services), §26.210 of this title (relating to Promotional Rates for Local Exchange Company Services), or §26.211 of this title (relating to Rate Setting Flexibility for Services Subject to Significant Competitive Challenges) shall be reviewed administratively unless the presiding officer, for good cause, determines at any point during the review that the application should be docketed. The operation of the proposed rate schedule may be suspended for 35 days after the effective date of the application. The effective date shall be no earlier than 30 days after the filing date of the application or 30 days after public notice is completed, whichever is later. The application shall be examined for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant shall be notified within ten working days of the filing date of the specific deficiency in its application, and the earliest possible effective date of the application shall be no less than 30 days after the filing of a sufficient application with substantially complete information as required by the presiding officer. Thereafter,

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any time deadlines shall be determined from the 30th day after the filing of the sufficient application and information or from the effective date if the presiding officer extends that date. While the application is being administratively reviewed, the commission staff and the staff of the Office of Public Utility Counsel may submit requests for information to the DCTU. Three copies of all answers to such requests for information shall be provided to the commission staff and the Office of Public Utility Counsel within ten days after receipt of the request by the DCTU. No later than 20 days after the filing date of the application, interested persons may provide to the commission staff written comments or recommendations concerning the application. The commission staff shall and the Office of Public Utility Counsel may file with the presiding officer written comments or recommendations concerning the application. No later than 35 days after the effective date of the application, the presiding officer shall complete an administrative review to determine whether the DCTU's application meets the following requirements:

- (1) The proposed service meets all requirements pursuant to the applicable section under which it is filed;
 - (2) Notice was provided as required by the presiding officer;
 - (3) The proposed rates and terms of the service are not unreasonably preferential, prejudicial, or discriminatory, subsidized directly or indirectly by regulated monopoly services, or predatory or anticompetitive; and
 - (4) Provision of the service is consistent with the public interest in a technologically advanced telecommunications system, the preservation of universal service, and the prevention of anticompetitive practices and of subsidization of new and experimental services with revenues from regulated monopoly services.
- (f) **Approval or denial of applications.** For its application to be approved, the DCTU must meet all of the requirements in the applicable section pursuant to which the application is made, unless such requirements are modified or waived by the presiding officer as provided under provisions of that section. If, based on the administrative review, the presiding officer determines that all requirements not waived have been met, the DCTU shall be permitted to offer the service at the rates and terms approved by the presiding officer. If, based on the administrative review, the presiding officer determines that one or more of the requirements not waived have not been met, the presiding officer may dismiss or, upon prior request of the DCTU, shall docket the application.
- (g) **Review of the applications after docketing.** If the application is docketed, the operation of the proposed rate schedule shall be automatically suspended to a date 120 days after the applicant has filed all of its direct testimony and exhibits, or 155 days after the effective date, whichever is later. Three copies of all answers to requests for information shall be filed with the commission within ten days after receipt of the request. Affected persons may move to intervene in the docket, and a hearing on the merits shall be scheduled. The application shall be processed in accordance with the commission's rules applicable to docketed proceedings.
- (h) **Withdrawal of a service.** When a DCTU seeks to withdraw a tariffed service, the application shall be filed pursuant to this subsection and shall be docketed to allow adequate time for review, and completion of notice. The DCTU shall provide direct mail notice to all current customers of the service and shall issue such notice only after the commission has reviewed and approved the notice. The DCTU shall provide the following information in its application:
- (1) The number of current subscribers in each exchange;
 - (2) The reason for withdrawing the service;
 - (3) Provisions for grandfathering current customers or competitive alternatives available within the exchange locations, including DCTU provided alternatives;
 - (4) Annual revenues for the last three years for the service; and

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- (5) If the service has no current subscriber, the DCTU shall provide an affidavit to this effect.
- (i) A DCTU that is not subject to rate-of-return regulation under Public Utility Regulatory Act, Chapter 53:
 - (1) may, but is not required to maintain on file with the commission tariffs, price lists, or customer service agreements governing the terms of providing service;
 - (2) may cross-reference its federal tariff in its state tariff if its intrastate switched access rates are the same as its interstate switched access rate;
 - (3) may withdraw a tariff, price list, or customer service agreement not required to be filed or maintained with the commission under this section if it:
 - (A) files written notice of the withdrawal with the commission; and
 - (B) notifies its customers of the withdrawal and posts the current tariffs, price lists, or generic customer service agreements on its Internet website.