

PROJECT NO. 36622

RULEMAKING TO AMEND TARIFF	§	PUBLIC UTILITY COMMISSION
FILING REQUIREMENTS FOR	§	
TELECOMMUNICATIONS	§	OF TEXAS
UTILITIES	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §26.227
AS APPROVED AT THE AUGUST 26, 2009, OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §26.227, relating to Procedures Applicable to Nonbasic Services and Pricing Flexibility for Basic and Nonbasic Services for Chapter 58 Electing Companies. The proposed amendment will streamline the tariff filing requirements for telecommunications companies required to file switched-access rates concurrent with federal tariffed rates. Project Number 36622 is assigned to this proceeding.

John Costello, Senior Rate Analyst, Rate Regulation Division, 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. Costello 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 a streamlined tariff filing process. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. Therefore, no regulatory flexibility analysis is required.

There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Costello 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 (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested, pursuant to the Administrative Procedure Act, Texas Government Code §2001.029 at the commission's offices, located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for a public hearing must be received within 10 days after publication.

Comments on the proposed amendment 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 14 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed rule(s). 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. All comments should refer to Project Number 36622.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2008) (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 52.251 and Chapter 65, Subchapter E pertaining to reduction of switched access rates.

Cross Reference to Statutes: PURA §§14.002, 52.251; and PURA Chapter 65, Subchapter E.

§26.227. Procedures Applicable to Nonbasic Services and Pricing Flexibility for Basic and Nonbasic Services for Chapter 58 Electing Companies.

(a) – (b) (No change.)

(c) **Informational notice filing and notice requirements related to pricing flexibility and nonbasic services, including new services.**

(1) **Notice requirements:**

~~(A) — General notice requirements.~~ An electing company shall provide the informational notice in compliance with this section to the commission, to the Office of Public Utility Counsel (OPC), and to any person who holds a certificate of operating authority in the electing company's certificated area or areas, or who has an effective interconnection agreement with the electing company.

~~(B) — Additional notice requirements for an electing company serving more than five million access lines. In addition to the notice requirements in subparagraph (A) of this paragraph, an electing company serving more than five million access lines in this state shall:~~

~~(i) — comply with the following notice requirements when proposing any changes in the generally available prices and terms under which the electing company offers basic or nonbasic telecommunications services regulated by the commission at retail rates to subscribers that are not telecommunications providers, including:~~

~~(I) — introduction of any new nonbasic services;~~

~~(II) — new features or functions of nonbasic services;~~

~~(III) — promotional offerings of nonbasic services; or~~

~~(IV) — discontinuation of then-current features or services.~~

~~(ii) — Notice shall be provided to any person who~~

~~(I) — holds a certificate of operating authority in the electing company's certificate area or areas; or~~

~~(H) has an effective interconnection agreement with the electing company.~~

~~(iii) The following timelines shall apply to the provisions of notice pursuant to this subsection:~~

~~(I) If the electing company is required to give notice to the commission, at the same time the company provides that notice; or~~

~~(II) If the electing company is not required to give notice to the commission, at least 45 days before the effective date of a price change or 90 days before the effective date of a change other than a price change, unless the commission determines that the notice should not be given.~~

~~(C) The requirement for additional notice under subparagraph (B) of this paragraph expires on September 1, 2003.~~

(2) Filing requirements:

(A) - (C) (No change.)

(D) Format of filing. An informational notice under this section must include the following elements:

(i) - (iv) (No change.)

(v) new and/or revised tariff pages, written in plain language and conforming with §26.207 of this title (relating to Form and Filing of Tariffs), governing the form and filing of tariffs; except that an informational notice filing that cross-references the Federal Communications Commission (FCC) website for rates, terms, and/or conditions of the utility's interstate tariff for an equivalent service may be considered sufficient. To incorporate a FCC tariff for a Texas tariff filing, the utility shall reference the FCC website, reference the uniform resource locator (URL or worldwide web address) specific to the tariff, and provide a detailed explanation of how to locate the concurring tariff rates, terms and/or conditions on

the URL for each applicable tariff sheet of the filing. Further, the utility must state in a cover letter to the filing that it is incorporating a FCC tariff and specifically identify the affected rate schedules. A utility that files an intrastate tariff by reference to a FCC-approved tariff must notify the commission, in an informational filing, within 10 business days of any changes to the referenced interstate rates or any changes to the applicable URL. If switched-access rates are no longer required to concur with federal rates, a new tariff must be filed;

(vi) - (xiv) (No change.)

(d) – (f) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 27th DAY OF AUGUST 2009 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**