

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter B. CUSTOMER SERVICE AND PROTECTION.

§26.23. Refusal of Service.

- (a) **Dominant certificated telecommunications utility (DCTU).**
- (1) A DCTU is relieved of its provider of last resort (POLR) obligations in a market if the market has been deregulated pursuant to Public Utility Regulatory Act Chapter 65. A DCTU with POLR obligations may refuse to provide an applicant with basic local telecommunications service only for one or more of the following reasons:
- (A) Applicant's facilities inadequate. The applicant's installation or equipment is known to be hazardous or of such character that satisfactory service cannot be given.
 - (B) Use of prohibited equipment or attachments. The applicant fails to comply with the DCTU's tariffs pertaining to operation of nonstandard equipment or unauthorized attachments that interfere with the service of others.
 - (C) Failure to pay guarantee. The applicant has acted as a guarantor for another customer of the DCTU and fails to pay the guaranteed amount, where such guarantee was made in writing to the DCTU and was a condition of service.
 - (D) Intent to deceive. The applicant requests service at a location where another customer received or continues to receive service, the other customer's bill from the DCTU is unpaid at that location, and the DCTU can prove that the change of account holder and billing name is made to avoid or evade payment of an outstanding bill owed to the DCTU.
 - (E) For indebtedness.
 - (i) If a residential applicant owes a debt to any DCTU for:
 - (I) tariffed local telecommunications service, except as provided in §26.29 of this title (relating to Prepaid Local Telephone Service (PLTS)); or
 - (II) long distance charges after toll blocking was imposed as provided in §26.28 of this title (relating to Suspension or Disconnection of Service).
 - (ii) If a non-residential applicant owes a debt to any DCTU for tariffed non-residential local telecommunications service, including long distance charges.
 - (iii) If an applicant's indebtedness is in dispute, basic local telecommunications service shall be provided upon the applicant's compliance with the deposit requirements in §26.24 of this title (relating to Credit Requirements and Deposits).
 - (F) Refusal to pay a deposit. The applicant refuses to pay a deposit if the applicant is required to do so under §26.24 of this title.
 - (G) Failure to comply with regulations. The applicant fails to comply with all applicable state and municipal regulations.
- (2) **Applicant's recourse.**
- (A) If a DCTU has refused to serve a residential applicant, the DCTU must send the applicant notice in writing within five work days of the determination to refuse service:
- (i) of the reason or reasons for its refusal;
 - (ii) that the applicant will be eligible for service if the applicant remedies the reason or reasons for refusal and complies with the DCTU's tariffs and terms and conditions of service;
 - (iii) that the applicant may request a supervisory review by the DCTU and may file a complaint with the commission as described in §26.30 of this title (relating to Complaints); and

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- (iv) that no telecommunications utility is permitted to:
 - (I) refuse service on the basis of race, color, sex, nationality, religion, marital status, income level, or source of income; nor
 - (II) unreasonably refuse service on the basis of geographic location.
 - (B) Additionally, the DCTU must inform applicants eligible for prepaid local telephone service under §26.29 of this title that this service is available if they are not otherwise eligible for basic local telecommunications service.
- (3) **Insufficient grounds for refusal to serve.** The following are not sufficient grounds for refusal of basic local telecommunications service to an applicant by a DCTU:
 - (A) delinquency in payment for service by a previous occupant of the premises to be served;
 - (B) failure to pay for any charges that are not provided in the DCTU's tariffs on file at the commission;
 - (C) failure to pay a bill that includes more than six months of underbilling unless the underbilling is the result of theft of service by the applicant;
 - (D) failure to pay the bill of another customer at the same address except where the change of account holder and billing name is made to avoid or evade payment of that bill; and
 - (E) failure of a residential applicant to pay for any charges other than for local telecommunications service except for long distance charges incurred after toll blocking was imposed as provided in §26.28 of this title.
- (b) **Nondominant certificated telecommunications utility (NCTU).**
 - (1) This subsection does not apply to a deregulated company holding a certificate of operating authority or to an exempt carrier under PURA §52.154.
 - (2) An NCTU may refuse to provide an applicant with basic local telecommunications service for:
 - (A) the applicant's failure to comply with all applicable federal, state, and municipal regulations; or
 - (B) any other reason that does not violate applicable federal, state, or municipal statutes, rules, or regulations.
 - (3) **Applicant's recourse.**
 - (A) If an NCTU who offers residential service has refused to provide a residential applicant with basic local telecommunications service, the NCTU must inform the applicant of the determination to refuse service:
 - (i) of the reason or reasons for its refusal; and
 - (ii) that the applicant will be eligible for service if the applicant remedies the reason or reasons for refusal and complies with the NCTU's terms and conditions of service.
 - (B) The information required by subparagraph (A) of this paragraph shall be sent to the applicant in writing within five working days, if required by the federal Equal Credit Opportunity Act, 15 U.S.C. §1691 et seq., or if it is requested by the applicant. The NCTU shall inform the applicant that the applicant may request a supervisory review by the NCTU and may file a complaint with the commission as described in §26.30 of this title.
 - (4) **Insufficient grounds for refusal to serve.** The following are not sufficient grounds for refusal of basic local telecommunications service to an applicant by an NCTU:
 - (A) delinquency in payment for service by a previous occupant of the premises to be served;
 - (B) failure to pay for any charges that are not provided in the NCTU's tariffs;

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- (C) failure to pay a bill that includes more than six months of underbilling unless the underbilling is the result of theft of service by the applicant;
- (D) failure to pay the bill of another customer at the same address except where the change of account holder and billing name is made to avoid or evade payment of that bill; and
- (E) failure of a residential applicant to pay for any charges other than for local telecommunications service except for long distance charges incurred after toll blocking was imposed as provided in §26.28 of this title.