

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter L. WHOLESALE MARKET PROVISIONS.

§26.283. Infrastructure Sharing.

- (a) **Definitions.** The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.
- (1) **Local exchange company (LEC)** — As defined in the Public Utility Regulatory Act, Texas Utilities Code §51.002(4) (Vernon 1998) (PURA).
 - (2) **Public switched network infrastructure and technology** — Includes, but is not limited to:
 - (A) Basic public switched network infrastructure and technology - The physical plant and corresponding functionalities that provide basic network services such as those listed in PURA §58.051.
 - (B) Advanced public switched network infrastructure and technology - The physical plant and corresponding functionalities that provide integrated services digital network (ISDN) services as set forth in PURA §58.203(c), optical fiber or equivalent facilities, and Common Channel Signaling System 7.
 - (3) **Requesting local exchange company (LEC)** — A LEC that requests another LEC to share public switched network infrastructure and technology.
 - (4) **Sharing local exchange company (LEC)** — A LEC that has been requested by another LEC to share public switched network infrastructure and technology.
 - (5) **Sole carrier of last resort** — The LEC holding a certificate of convenience and necessity, as to the geographic area covered by such certificate.
- (b) **Requirement to share.** The commission may require any LEC to share public switched network infrastructure and technology with any other LEC that requests such sharing. In determining whether a LEC is required to share public switched network infrastructure and technology, the commission will consider such matters as:
- (1) whether the requesting LEC lacks economies of scale or scope that would prohibit the requesting LEC from offering a particular telecommunications service in an economically efficient manner in a specific geographic area;
 - (2) whether the requesting LEC is the sole carrier of last resort in the specific geographic area involved;
 - (3) whether requiring a LEC to share its public switched network infrastructure and technology would be economically efficient for the sharing LEC, or, if not, whether terms and conditions can and should be imposed that would make such sharing economically efficient; and
 - (4) whether requiring a LEC to share its public switched network infrastructure and technology is in the public interest.
- (c) **Procedure to request sharing.**
- (1) A LEC requesting that another LEC share public switched network infrastructure and technology shall make its request to the sharing LEC in writing.
 - (2) The requesting LEC and the sharing LEC shall negotiate terms and conditions of the sharing arrangement. The terms and conditions may include, but are not required to include, joint ownership and/or operation of public switched network infrastructure and services by the LECs.
 - (3) Within 60 days after a LEC has received a request for sharing, the sharing and requesting LECs shall jointly file an agreement setting forth the terms and conditions of the sharing arrangement, unless the requesting LEC and the sharing LEC agree to an extension of time. If the parties cannot reach agreement on the appropriate terms and conditions, the requesting party shall instead file a petition to resolve issues related to infrastructure sharing. A petition to resolve issues related to infrastructure sharing shall be filed not later than the 60th day after the sharing LEC's receipt of the request for sharing, or such later time as the requesting LEC and the sharing LEC agree. The

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petition shall set forth, as appropriate, the terms and conditions on which agreement has been reached, the specific issues the commission is being asked to resolve, the requesting LEC's suggested resolution of such issues in terms that could be inserted into an agreement, and a suggested procedural schedule for resolution of the issues. The petition shall also address the factors that the commission must consider under subsection (b) of this section. If a petition is filed in lieu of an agreement, the sharing LEC must file a response within 10 days of the filing of the petition. The sharing LEC's response must address, in like manner, each item required by this subsection to be included in the petition.