

PROJECT NO. 24305

RULEMAKING RELATED TO § PUBLIC UTILITY COMMISSION
ESTABLISHMENT OF UNIFORM §
COST RECOVERY METHODS FOR §
9-1-1 DEDICATED TRANSPORT § OF TEXAS

**PROPOSAL FOR PUBLICATION OF NEW §26.435 AS APPROVED
AT THE FEBRUARY 7, 2002 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §26.435, relating to Cost Recovery Methods for 9-1-1 Dedicated Transport. The proposed new rule will ensure consistency and uniformity of cost recovery for dedicated transport for 9-1-1. Project Number 24305 is assigned to this proceeding.

John Mason, Director, Legal Division-Telecommunications and James Kelsaw, Network Analyst, Telecommunications Industry Analysis, have determined that for each year of the first five-year period the proposed rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Mason and Mr. Kelsaw have determined that for each year of the first five years the proposed rule is in effect the public benefit anticipated as a result of enforcing the section will be enhancement of 9-1-1 service quality by requiring uniform cost recovery methods for all certificated telecommunications utilities (CTUs). 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. Mason and Mr. Kelsaw have also determined that for each year of the first five years the proposed rule 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.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to Government Code §2001.029, at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701 on Thursday, April 25, 2002 at 9:30 a.m. The request for a public hearing must be received within 30 days after publication.

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. Reply comments may be submitted within 45 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule(s). All comments should refer to Project Number 24305. 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. In addition, the commission requests specific comments on the following questions:

1. Should the costs for 9-1-1 dedicated transport be apportioned equally between CTUs originating the 9-1-1 call and the 9-1-1 network service provider, as

- defined in §26.433 of this title (relating to Roles and Responsibilities of 9-1-1 Service Providers)? In your response, please compare and contrast possible network arrangements (e.g. incumbent local exchange company (ILEC) to ILEC vs. competitive local exchange company (CLEC) to ILEC).
2. Is there a more appropriate allocation method to apportion costs than the method proposed in (d)(1)? If so, what?
 3. Does the proposed rule adequately address CTUs' concerns regarding alleged discriminatory rates that are charged by the applicable 9-1-1 network service provider, as defined in §26.433 of this title (relating to Roles and Responsibilities of 9-1-1 Service Providers)? Please explain fully.
 4. If the proposed rule does not adequately address CTUs' concerns regarding alleged discriminatory rates, is the following language appropriate: "A 9-1-1 network service provider as defined in §26.433(b) of this title (relating to Roles and Responsibilities of 9-1-1 Service Providers) that provides transmission facilities from the point of interconnection with a CTU to the 9-1-1 selective router shall charge the CTU an amount not to exceed the pro rata share of the amount the CTU is entitled to recover from the 9-1-1 entity under paragraph (1) of this subsection."

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2002) (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 §58.051

which requires PURA Chapter 58 electing companies to offer access for all residential and business end users to 9-1-1 service provided by a local authority and access to dual party relay service; §60.001 which requires the commission to ensure that the rates and rules of an incumbent local exchange company are not unreasonably preferential, prejudicial, or discriminatory and are equitably and consistently applied; §60.122 which grants the commission exclusive jurisdiction to determine rates and terms for interconnection for a holder of a certificate of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority; and §60.124 which requires each telecommunications provider to maintain interoperable networks.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 58.051, 60.001, 60.122, and 60.124.

§26.435. Cost Recovery Methods for 9-1-1 Dedicated Transport.

(a) **Purpose.** The purpose of this section is to establish uniform cost recovery methods for dedicated trunks used in the provision of 9-1-1 service to end users by certificated telecommunications utilities (CTUs).

(b) **Application.** This section applies to all CTUs providing local exchange service.

(c) **Definitions.** The following words and terms when used in this section shall have the following meaning unless the context indicates otherwise:

(1) **9-1-1 entity** — A regional planning commission as defined in Texas Health & Safety Code Annotated §771.001(10) and an emergency communication district as defined in the Texas Health & Safety Code Annotated §771.001(3).

(2) **9-1-1 Service Agreement** — The contract addressing the 9-1-1 service arrangement(s) for the relevant local area that the 9-1-1 entity and the CTU shall negotiate and execute.

(3) **Dedicated trunk** — A 9-1-1 digital signal trunk that originates at a CTU switching office or point of presence and terminates at a 9-1-1 selective router on a port termination, regardless of the type of application (with a presumption for the use of the most up-to-date industry standard application, where technically feasible, unless otherwise specified in the 9-1-1 Service Agreement), and as described to the CTU by the applicable

9-1-1 entity in its service arrangement requirements in each applicable rate center requiring termination to a 9-1-1 selective router. 9-1-1 dedicated trunks shall be assigned to 9-1-1 transmission facilities. Each CTU shall be responsible for providing such 9-1-1 transmission facilities from the CTU switching office or point of presence to the 9-1-1 selective router.

- (4) **Service arrangement** — Each particular arrangement for 9-1-1 emergency service specified by the 9-1-1 entity for the relevant rate center(s) within its jurisdictional area.
- (d) **Reimbursable costs.**
- (1) Subject to the applicable law regarding payments by the 9-1-1 entity, the 9-1-1 entity shall reimburse a CTU a maximum non-recurring rate of \$165 and recurring rate of \$39 per month as the total compensation for each dedicated trunk and any associated dedicated transmission facilities, unless:
- (A) the CTU provides evidence to the commission that based upon certain technology deployment a different rate should apply; and
- (B) after appropriate review, the commission approves such rate as requested by the CTU.
- (2) The number of dedicated trunks needed for 9-1-1 purposes shall be determined by the CTU following industry standards to provide a grade of service of P.01 or greater, but the minimum number of dedicated trunks to

each 9-1-1 selective router per service arrangement shall not be less than two.

- (3) As a prerequisite to receiving compensation for more than the minimum number of dedicated trunks required to meet the P.01 grade of service, the CTU must provide to the 9-1-1 entity, at least 30 days prior to seeking additional compensation, copies of traffic studies, performed using measured call volumes on the individual trunk group, establishing that more than the minimum number of dedicated trunks required to meet the P.01 grade of service are necessary.
- (4) The traffic study or summary provided in response to paragraph (3) of this subsection shall be provided to the 9-1-1 entity at no cost. Any other traffic studies to evaluate current network performance will be provided to the 9-1-1 entity upon request, and the CTU shall be compensated by the 9-1-1 entity on a time and materials basis at rates that do not exceed the tariff rates approved as reasonable by the commission for the dominant CTU in the rate center.
- (5) Only the CTU originating the dedicated trunk from the switching office or point of presence to the 9-1-1 selective router can submit charges to the 9-1-1 entity for the maximum reimbursement required in paragraph (1) of this subsection.
- (6) Where the same dedicated trunks are permitted by the relevant service arrangements to serve areas administered by multiple 9-1-1 entities, a CTU shall contact the 9-1-1 entity serving the largest number of access

lines for the area served by the CTU with those dedicated trunks and there shall be a rebuttable presumption that the 9-1-1 entity serving the largest number of access lines is the appropriate 9-1-1 entity to receive the billings for these dedicated trunks. The 9-1-1 entity that is responsible for receiving the billings for dedicated trunks pursuant to this subsection, may seek reimbursement of such expense from other 9-1-1 entities within the affected rate center.

- (7) CTUs that provide 9-1-1 transmission facilities to other CTUs shall charge no more than the actual costs to provide such facilities.
 - (8) The 9-1-1 network services provider as defined in §26.433(b) of this title (relating to Roles and Responsibilities of 9-1-1 Service Providers) shall charge nondiscriminatory rates for all services provided to CTUs.
- (e) **Reimbursement prerequisites.** A CTU must comply with each of the following prerequisites before the CTU can obtain reimbursement from the 9-1-1 entity for dedicated trunks:
- (1) Before the CTU initiates the provision of local exchange service in those areas in which the 9-1-1 entity provides 9-1-1 service, the CTU shall execute the 9-1-1 Service Agreement.
 - (2) The CTU shall provide verification to the applicable 9-1-1 entity that it is complying with all requirements of §26.433 of this title, including, but not limited to, §26.433(e)(2) of this title, requiring "a designated contact

person to be available at all times to work with the applicable" 9-1-1 entity.

- (3) A CTU that resells its local exchange service to any CTU that, in turn, provides the resold local exchange service to end users, shall demonstrate to the 9-1-1 entity that the CTU initially notified its reselling CTUs:
 - (A) that it does not remit the required 9-1-1 emergency service fees on behalf of reselling CTUs; and
 - (B) that, subject to a confidentiality agreement with the 9-1-1 entity, it will release reselling CTUs wholesale billing records to 9-1-1 entities for quality measurement purposes, including, but not limited to, auditing a reselling CTU's collection and remittance of 9-1-1 emergency service fees in accordance with applicable law.
- (4) A CTU that provides resold local exchange service to end users must execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such service agreement.

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 13th DAY OF FEBRUARY 2002 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**