

**CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.**

**Subchapter J. COSTS, RATES AND TARIFFS.**

**§26.214. Long Run Incremental Cost (LRIC) Methodology for Services provided by Certain Incumbent Local Exchange Companies (ILECs).**

- (a) **Application.** This section shall apply to ILECs with annual revenues from regulated telecommunications operations in Texas of less than \$100 million for five consecutive years.
- (b) **Purpose.** This section shall be used to determine the long run incremental costs incurred by ILECs in the provision of telecommunications services in those instances in which the ILEC chooses to establish LRIC studies.
- (c) **LRIC studies.** An ILEC may establish a service's LRIC by submitting a LRIC cost study that conforms to the following general requirements:
  - (1) A LRIC study must identify the ILEC's investment in all facilities that reflect forward looking least cost technology, as set forth in §26.215(f)(3) of this title (relating to Long Run Incremental Cost Methodology for Dominant Certificated Telecommunications Utility (DCTU) Services), used in the provision of the service.
  - (2) A LRIC study must apply appropriate loading and fill factors associated with the service.
  - (3) A LRIC study must apply appropriate annual cost factors, including but not limited to depreciation and cost of money, associated with the service.
  - (4) A LRIC study must identify non-capital costs associated with the service, including but not limited to maintenance, billing and collection, and marketing costs.
- (d) **Procedures for review of LRIC studies filed under subsection (c) of this section.** A LRIC study considered under this section shall be reviewed administratively to determine whether the ILECs LRIC study is consistent with the requirements of this section.
  - (1) **Notice.** At least ten days before an ILEC files any LRIC study pursuant to this section, the ILEC shall file with the commission and the Office of Public Utility Counsel (OPC) a notice of its intent to file such LRIC study and the expected filing date. The ILEC's notice shall indicate that the filing is being made pursuant to this section. The commission shall then publish notice of the ILEC's intent to file the LRIC study in the *Texas Register*.
  - (2) **Sufficiency.** The LRIC study shall be examined for sufficiency. To be sufficient, the LRIC study shall conform to the requirements of this section.
    - (A) Except as required under subparagraph (B) of this paragraph, if the commission staff concludes that material deficiencies exist in the LRIC study, the ILEC shall be notified by the commission staff of the specific deficiency within three working days after the filing date of the LRIC study. The ILEC shall have two working days after the date it is notified of the deficiency to file a corrected LRIC study. On or before five working days after the date of the ILEC response, the presiding officer shall issue an order with regard to the sufficiency.
    - (B) If the LRIC study filed for approval pursuant to this section is also filed simultaneously as part of an informational notice filing and a contested case arises as a result of the dispute regarding sufficiency of the LRIC study filed as part of the informational notice filing, the review of the LRIC study pursuant to this section shall be abated pending the resolution of the contested case.
  - (3) **Time schedule.**
    - (A) No later than 45 days after the filing date of the sufficient LRIC study, any party that demonstrates a justiciable interest may file with the presiding officer written comments or recommendations concerning the LRIC study.

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**§26.214(d)(3) continued**

- (B) No later than 55 days after the filing date of the sufficient LRIC study, OPC may file with the presiding officer written comments or recommendations concerning the LRIC study.
- (C) No later than 65 days after the filing date of the sufficient LRIC study, the commission staff shall file with the presiding officer written comments or recommendations concerning the LRIC study.
- (D) No later than 75 days after the filing date of the sufficient LRIC study, any party that demonstrates justiciable interest, OPC, or the ILEC may file with the presiding officer a written response to the commission staff's recommendation.
- (E) No later than 85 days after the filing date of the sufficient LRIC study, the presiding officer shall issue a notice stating whether the ILEC's LRIC study is consistent with the requirements of this section. In this notice, the presiding officer shall approve the LRIC study or order the ILEC to refile the LRIC study incorporating all modifications recommended by the presiding officer.
- (F) Any party may appeal to the commission an administrative notice by a presiding officer within seven days after the date the notice is issued. The commission shall rule on any appeal added to an open meeting agenda, within 30 days after the date the appeal is filed. If the commission or a presiding officer orders a cost study to be changed, the ILEC shall be ordered to make those changes within a period that is commensurate with the complexity of the LRIC study.
- (G) Requests for information. While the LRIC study is being administratively reviewed, the commission staff, OPC, and any party that demonstrates a justiciable interest may submit requests for information to the ILEC. Copies of all answers to such requests for information shall be provided within ten days after receipt of the request by the ILEC to the commission staff, OPC, and any party that demonstrates a justiciable interest.
- (H) Suspension. At any point within the first 45 days of the review process, the presiding officer, the commission staff, OPC, the ILEC, or any party that demonstrates a justiciable interest may request that the review process be suspended for 30 days. The presiding officer may grant a request for suspension only upon determination that the party has demonstrated a good cause exists for the suspension.
- (I) Effective date of the LRIC study. The effective date of the LRIC study shall be the date it is approved by the presiding officer.