

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS

Subchapter B. CUSTOMER SERVICE AND PROTECTION.

§26.24. Credit Requirements and Deposits.

- (a) **Dominant certificated telecommunications utility (DCTU).**
- (1) **Credit requirements for permanent residential applicants.**
- (A) A DCTU may require a residential applicant for local telecommunications service to establish and maintain satisfactory credit as a condition of providing service.
- (i) Establishment of credit or payment of a deposit shall not relieve any customer from complying with the DCTU's requirements for prompt payment of bills.
- (ii) The creditworthiness of spouses established during the last 12 months of shared service prior to their divorce will be equally applied to both spouses for 12 months immediately after their divorce.
- (B) A residential applicant can demonstrate satisfactory credit using one of the criteria listed in clauses (i) - (iv) of this subparagraph.
- (i) Payment record. The residential applicant:
- (I) has been a customer of any DCTU for residential local telecommunications service within the last two years;
- (II) is not delinquent in payment of any residential DCTU service;
- (III) during the last 12 consecutive months of service was not late in paying a bill more than once and did not have service disconnected for nonpayment; and
- (IV) upon request, shall receive a letter of credit history from the applicant's previous DCTU. DCTUs are required to keep payment history for two years after termination of service to a customer.
- (ii) Other means. The residential applicant demonstrates a satisfactory credit rating by appropriate means, including, but not limited to, the production of:
- (I) generally accepted credit history;
- (II) letters of credit reference;
- (III) the names of credit references which may be quickly and inexpensively contacted by the utility; or
- (IV) ownership of substantial equity that is easily liquidated.
- (iii) Senior applicant. The residential applicant is 65 years of age or older and does not have an outstanding residential service account balance incurred within the last two years with a DCTU.
- (iv) Victim of family violence: The residential applicant has been determined to be a victim of family violence as defined in Texas Family Code §71.004, by a family violence center as defined in Texas Human Resources Code §51.002, by treating medical personnel, by law enforcement personnel, by the Office of a Texas District Attorney or County Attorney, by the Office of the Attorney General, or by a grantee of the Texas Equal Access to Justice Foundation. This determination shall be evidenced by submission of a certification letter developed by the Texas Council on Family Violence.
- (C) The DCTU may require the applicant to pay a deposit only if the applicant does not demonstrate satisfactory credit using the criteria in subparagraph (B) of this paragraph.
- (2) **Credit requirements for non-residential applicants.** The DCTU may require a non-residential applicant to pay a deposit if the applicant's credit for service has not been demonstrated satisfactorily to the DCTU.

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- (3) **Credit requirements for temporary or seasonal service and for weekend residences.** The DCTU may establish credit policy and deposit requirements to reasonably protect it against the assumed risk for temporary or seasonal service or service to a weekend residence, as long as the policy and requirements are applied in a uniform and nondiscriminatory manner. The DCTU shall return deposits according to guidelines set out in paragraph (11) of this subsection.
- (4) **Initial deposits.**
- (A) A residential applicant or customer who is required to pay an initial deposit may provide the DCTU with a written letter of guarantee instead of paying a cash deposit.
- (B) A DCTU shall not require an initial deposit from an existing customer unless the customer was late paying a bill more than once during the last 12 months of service or had service disconnected for nonpayment. The customer may be required to pay this initial deposit within ten days after issuance of a written disconnection notice that requests such deposit. Instead of an initial deposit, the customer may pay the total amount due on the current bill by the due date of the bill, provided the customer has not exercised this option in the previous 12 months.
- (5) **Additional deposits.**
- (A) During the first 12 months of service, the DCTU may request an additional deposit if the customer's actual usage:
- (i) is at least three times estimated usage (or three times average usage of the three most recent bills);
 - (ii) exceeds \$150; and
 - (iii) exceeds 150% of the security held.
- (B) A DCTU may also require an additional deposit if:
- (i) actual billings of a residential customer are at least twice the amount of the estimated billings after two billing periods;
 - (ii) actual billings of a non-residential customer are at least twice the amount of the estimated billings; and
 - (iii) a suspension or disconnection notice was issued for the account within the previous 12 months.
- (C) A DCTU may require an additional deposit be paid within ten days after issuing written notice of suspension or disconnection and requesting an additional deposit.
- (D) Instead of an additional deposit, a residential customer may elect to pay the total amount due on the current bill by the due date of the bill, provided the customer has not exercised this option in the previous 12 months.
- (E) The DCTU may disconnect service if the additional deposit or the current usage payment is not paid within ten days of request provided a written suspension or disconnection notice has been issued to the customer. A suspension or disconnection notice may be issued concurrently with the written request for the additional deposit or current usage payment.
- (6) **Amount of deposit.** When a DCTU requires a deposit:
- (A) The total of all deposits, initial and additional, shall not exceed an amount equivalent to one-sixth of the estimated annual billing, except as provided in §26.29 of this title (relating to Prepaid Local Telephone Service).
- (B) The estimated annual billings shall not include charges that are not in a DCTU's tariff.

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- (C) For residential applicants and customers:
 - (i) estimated annual billings:
 - (I) shall not include long distance charges from other service providers;
 - (II) may include charges for tariffed local telecommunications services;
 - (III) may include charges for intraLATA toll only if the DCTU or its affiliate is providing this service to the customer; and
 - (IV) may include charges for interLATA toll only if the DCTU or its affiliate is providing this service to the customer.
 - (ii) the deposit amount related to local telecommunications service and long distance service shall be separately identified.
 - (iii) the deposit amount related only to basic local telecommunications service may be required as a condition for providing basic local telecommunications services.
 - (D) For non-residential applicants and customers, estimated annual billings may include long distance charges only when the DCTU bills those charges.
- (7) **Interest on deposits.**
- (A) Each DCTU requiring deposits shall pay interest, compounded annually, on these deposits. The annual rate shall be at least equal to that set by the commission on December 1 of the preceding year, pursuant to Texas Utilities Code Annotated §183.003 (Vernon 1998) (relating to Rate of Interest).
 - (i) If a deposit is refunded within 30 days of receipt, no interest payment is required.
 - (ii) If the utility keeps the deposit more than 30 days, payment of interest shall be made retroactive to the date of deposit.
 - (B) Payment of the interest to the customer shall be made annually, if requested by the customer, or at the time the deposit is returned or credited to the customer's account.
 - (C) The deposit shall draw interest until the date it is returned or credited to the customer's account.
- (8) **Notification to applicants and customers.** When a deposit is required, the DCTU shall explain to applicants or customers the terms and conditions related to deposits and refunds.
- (9) **Records of deposits.** The DCTU shall:
- (A) Keep records to show:
 - (i) the name and address of each depositor;
 - (ii) the amount and date of the deposit; and
 - (iii) each transaction concerning the deposit;
 - (B) Issue a receipt of deposit to each applicant or customer paying a deposit and provide means for a depositor to establish claim if the receipt is lost;
 - (C) Keep deposit records for one year after a deposit is refunded;
 - (D) Maintain each unclaimed deposit for at least four years;
 - (E) Make a reasonable effort to return an unclaimed deposit;
 - (F) Upon the sale or transfer of any DCTU or any of its operating units, provide the buyer with all deposit records.
- (10) **Guarantees of residential customer accounts.**
- (A) A guarantee between a DCTU and a guarantor must be in writing and shall be for no more than the amount of deposit the DCTU would require on the customer's account pursuant to paragraph (6) of this subsection. The amount of the guarantee shall be clearly indicated in the signed agreement.

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- (B) The guarantee shall be voided and returned to the guarantor according to the provisions of paragraph (11) of this subsection.
 - (C) Upon default by a residential customer, the guarantor of that customer's account shall be responsible for the unpaid balance of the account only up to the amount in the written agreement.
 - (D) The DCTU shall provide written notification to the guarantor of the customer's default, the amount owed by the guarantor, and the due date for the amount owed.
 - (i) The DCTU shall allow the guarantor 16 days from the date of notification to pay the amount owed on the defaulted account. If the sixteenth day falls on a holiday or weekend, the due date shall be the next work day.
 - (ii) The DCTU may transfer the amount owed on the defaulted account to the guarantor's own service bill provided the guaranteed amount owed is identified separately on the bill.
 - (E) The DCTU may disconnect service to the guarantor for nonpayment of the guaranteed amount only if the disconnection was included in the terms of the written agreement and only after proper notice as described by subparagraph (D) of this paragraph, and §26.28 of this title (relating to Suspension or Disconnection of Service).
- (11) **Refunding deposits and voiding letters of guarantee.**
- (A) If service is not connected, or is disconnected, the DCTU shall:
 - (i) promptly void and return to the guarantor all letters of guarantee on the account; or
 - (ii) provide written documentation that the contract has been voided; or
 - (iii) refund the applicant's or customer's deposit plus accrued interest on the balance in excess of the unpaid bills for service furnished.
 - (B) If residential service is disconnected, the DCTU shall ensure that the deposit amount for local telecommunications service is applied first to local telecommunications service charges.
 - (C) A transfer of service from one premise to another within the service area of the DCTU is not a disconnection.
 - (D) The DCTU shall promptly refund the deposit plus accrued interest to the customer, or void and return the guarantee, or provide written documentation that the contract has been voided, when the customer:
 - (i) paid bills for 12 consecutive residential billings or for 24 consecutive non-residential billings without having service disconnected for nonpayment;
 - (ii) was not late in paying a bill more than twice in the last 12 consecutive billings (24 for non-residential); and
 - (iii) is not delinquent in the payment of the current bill.
 - (E) If the customer does not meet the refund criteria in subparagraph (D) of this paragraph, the DCTU may retain the deposit and interest or the letter of guarantee.
- (12) **Re-establishment of credit.**
- (A) Before service is reconnected, the DCTU may require an applicant whose service was previously disconnected for nonpayment or theft of service, to reestablish credit and to pay:
 - (i) all amounts due the DCTU; or
 - (ii) execute a deferred payment agreement, if offered.
 - (B) The DCTU must prove that the amount due for services furnished and any other charges required as a condition of local service restoration are correct.

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- (C) The DCTU may require a residential applicant to pay or execute a deferred payment agreement only for the total amount due for tariffed local telecommunications service in order to receive basic local telecommunications service.
- (13) **Customer credit and deposit information.** A DCTU shall safeguard customer credit and deposit information in accordance with §26.122 of this title (relating to Customer Propriety Network Information).
- (b) **Non-dominant certificated telecommunications utility (NCTU).**
 - (1) **Credit requirements for permanent residential applicants.** An NCTU may require a residential applicant for local telecommunications service to establish and maintain satisfactory credit as a condition of providing service.
 - (A) Establishment of credit or payment of a deposit shall not relieve any customer from complying with the NCTU's requirements for prompt payment of bills.
 - (B) The creditworthiness of spouses established during the last 12 months of shared service prior to their divorce will be equally applied to both spouses for 12 months immediately after their divorce.
 - (2) **Amount of deposit.** When an NCTU requires a deposit:
 - (A) The total of all deposits, initial and additional, shall not exceed an amount equivalent to one-sixth of the estimated annual billing.
 - (B) For residential applicants and customers:
 - (i) estimated annual billings shall not include long distance charges from other non-affiliated service providers;
 - (ii) the deposit amount related to local telecommunications service and long distance service shall be separately identified; and
 - (iii) the deposit amount related only to basic local telecommunications service may be required as a condition for providing basic local telecommunications services.
 - (3) **Interest on deposits.**
 - (A) Each NCTU requiring deposits shall pay interest, compounded annually, on these deposits. The annual rate shall be at least equal to that set by the commission on December 1 of the preceding year, pursuant to Texas Utilities Code Annotated §183.003 (Vernon 1998) (relating to Rate of Interest).
 - (i) If a deposit is refunded within 30 days of receipt, no interest payment is required.
 - (ii) If the utility keeps the deposit more than 30 days, payment of interest shall be made retroactive to the date of deposit.
 - (B) Payment of interest shall be made at the time a deposit is returned or credited to the customer's account.
 - (C) The deposit shall draw interest until the day it is returned or credited to the customer's account.
 - (4) **Notification to applicants and customers.** When a deposit is required, the NCTU shall explain to applicants or customers the terms and conditions related to deposits and refunds.
 - (5) **Records of deposits.** The NCTU shall:
 - (A) Keep records to show:
 - (i) the name and address of each depositor;
 - (ii) the amount and date of the deposit; and
 - (iii) each transaction concerning the deposit;
 - (B) Issue a receipt of deposit to each applicant or customer paying a deposit and provide means for a depositor to establish claim if the receipt is lost;
 - (C) Keep deposit records for one year after a deposit is refunded;

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- (D) Maintain each unclaimed deposit for at least four years;
 - (E) Make a reasonable effort to return an unclaimed deposit; and
 - (F) Upon the sale or transfer of any NCTU or any of its operating units, provide the buyer with all deposit records.
- (6) **Refunding deposits.**
- (A) If service is not connected, or is disconnected, the NCTU shall promptly refund the customer's deposit plus accrued interest on the balance in excess of the unpaid bills for service furnished.
 - (B) If residential service is disconnected, the NCTU shall ensure that the deposit amount for local telecommunications service is applied first to local telecommunications service charges.
 - (C) An NCTU shall refund the deposit and interest when the customer meets the NCTU's refund criteria.
- (7) **Customer credit and deposit information.** An NCTU shall safeguard customer credit and deposit information in accordance with §26.122 of this title.
- (c) **NCTU implementation.** NCTUs shall implement this section no later than March 1, 2001.