

# Frequently Asked Questions Concerning CLEC Applications

## New Applications (Substantive Rules 26.109 and 26.111)

The Public Utility Commission of Texas' (PUC) telecommunications substantive rules can be found and downloaded from: <http://www.puc.state.tx.us/rules/subrules/telecom/index.cfm>

### 1. Do all types of telecommunications services require certification?

No. PURA Section 54.003 has a list of telecommunications services that do not require certification. They are:

- An interexchange telecommunications service;
- A nonswitched private line service;
- A shared tenant service;
- A specialized communications common carrier service;
- A commercial mobile service; or
- An operator service as defined by Section 55.081.

### 2. How long does it take to get a certification?

By law, the PUC has 60 days to approve or deny a completed application from the day it is filed in Central Records. The 60 days may be extended for the following reasons:

- To suit scheduling conflicts of the Commission Open Meetings;
- The application is incomplete or an old version of the application has been submitted;
- PUC staff requests additional time to evaluate information not filed in a timely manner or for other matters that require further attention. Staff must show good cause before the request will be granted;
- The applicant requests that the application deadline be extended by filing a letter or memo in Central Records. One original and five copies of the letter must be filed in Central Records. The application deadline extension request must be filed by an authorized representative of the applicant. The extension deadline request must contain the docket number and the length of time requested, such as one day, one week, two weeks or however much time is needed.

*Currently, the PUC has authorized an administrative law judge to grant routine applications administratively. This administrative approval process allows the Policy Development Division to grant approvals on a reduced time line of about 45 to 50 days.*

### 3. Does the application process require any fees?

No. There are no fees for filing COA or SPCOA applications or amendments to COA or SPCOA certifications at the PUC.

**4. Who are the Commission contacts for questions concerning the application process for a COAs or SPCOAs?**

- **Technical Questions (questions 1-16 and 25-31)**  
Gordon Van Sickle, Infrastructure Reliability Division  
(512) 936- 7343 or [gordon.vansickle@puc.state.tx.us](mailto:gordon.vansickle@puc.state.tx.us)
- **Financial Questions (questions 17-24)**  
Neal Frederick, Electric Industry Oversight Division  
(512) 936 7459 or [neal.frederick@puc.state.tx.us](mailto:neal.frederick@puc.state.tx.us)
- **Legal or Notification Questions**  
**Mark Hallmark**, Legal Division  
(512) 936-7293 or [mark.hallmark@puc.state.tx.us](mailto:mark.hallmark@puc.state.tx.us)
- **Filing Requirement Questions**  
Central Records  
(512) 936-7180

**5. Where can I get a copy of the current COA and SPCOA Application Form?**

The current COA and SPCOA Application Form is posted on the PUC Internet Site <http://www.puc.state.tx.us/telecomm/forms/clec/clecapp.doc>. You may also obtain a copy from Central Records. The COA and SPOCA Application Form changes periodically, so check it before you begin filing a new or amendment application. Old CLEC applications will not be accepted and use of an old application will delay the certification process, which officially begins only when the current application is filed.

**6. Must the application form be filed by an attorney?**

No. The application can be filed by an authorized representative of the applicant. The applicant designates the authorized person and lists them on the Title Page of the application. There is no requirement that this person be an attorney.

**7. If I want to provide local exchange communications (LEC) services [become a Competitive Local Exchange Carrier (CLEC)], what must I do?**

You must be certificated by the PUC, before you can begin providing competitive local telecommunications services in Texas. Two types of certificates have been established: the Certificate of Operating Authority (COA), and the Service Provider Certificate of Operating Authority (SPCOA). The types of COA and SPCOA providers are as follows:

- COA (facilities-based and resale)
- SPCOA (facilities-based and resale)
- SPCOA (resale only)
- SPCOA (data-only, facilities based, and resale)
- SPCOA (data-only and resale-only)

The substantive rules concerning COAs and SPCOAs are: §26.109 (COAs), §26.111 (SPCOAs), §26.113 (Amendments, Name Changes, and Relinquishments), and §26.114

(Suspension or Revocation of Certificates of Operating Authority (COAs) and Service Provider Certificates of Operating Authority (SPCOAs)).

**8. What are the differences between a COA and an SPCOA certification?**

COA certifications have an obligation to serve, while SPCOA certifications do not have the obligation to serve. Both can participate in the Universal Service Fund (USF). Basically, COAs are for companies that do not qualify for SPCOAs.

**9. How do I know which certification is best for me?**

If you are planning to build your own facilities, be obligated to serve all customers within your allotted service area and want to receive funds from the USF, the COA is probably the certification for you.

If you want to build your own facilities or resell Unbundled Network Elements (UNEs), such as local loops, directory assistance, or data switching; if you do not want to be obligated to serve any customers within your allotted service area and want to receive funds from the USF, then the SPCOA (facilities based and resale) certification is probably the certification that you want.

If you want to only resell retail services (does not include UNEs or UNE-P), not be obligated to serve any customers within your allotted service area and do not want to receive funds from the USF; then the SPCOA (resale-only) certification is probably the certification that you want.

If you want to build your own facilities to provide data-only services, and not be obligated to serve any customers within your service area; then the SPCOA (data only-facilities based and resale) certification is probably the certification that you want.

If you want to provide only resale data-only services and not be obligated to serve any customers within your allotted service area; then the SPCOA (data-only, resale-only) certification is probably the certification that you want.

Review your business plan and consult with an attorney, if necessary, to assure that you understand the opportunities and obligations of each certification option before you apply to the PUC.

**10. What are the most common general mistakes that could delay an application?**

- Not answering all parts of a question;
- Using N/A or Not Applicable as an answer. This is considered non-responsive and will delay processing;
- Not repeating the question before giving the answer;
- Not numbering the subparts of each question; and

- On the Title Page, the Agent for Service of process must be a corporation or individual registered in or residing in Texas.
- Not following the Commission’s rules and procedures on how to file documents.

**11. What are the most common specific mistakes by question number that could delay an application?**

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- **Question #1:** Not providing a detailed explanation of what applicant is trying to do. Use Part “C” to fully explain what applicant is seeking to do.
- **Question #2(h)&(i):** Not providing complete information on the Parent/Affiliates of the Applicant. It is necessary to tell where the parent and/or affiliates conduct business and the number of customers in each state.
- **Question #3:** Only one name should be entered. This is the name that will go on your certification and the name that you are supposed to use with the public on all advertisement and billing. No d/b/as can be attached to your requested name. For example “ABC Company d/b/a XYZ Communications. You may use either ABC Company or XYZ Communications, but not both.
- **Question #4:** This question has TWO parts A and B. Make sure you provide a complete/reasonable explanation of the services to be provided. Make certain your business plan is realistic, so that your finances are reasonable to support your business plan. Do not expect Staff to approve unrealistic business plans, with no personnel and no financing.
- **Question #7:** The only acceptable descriptions of your requested service area are:
  - Exchanges, which you should list by name;
  - Local Access and Transport Areas (LATAs), which is a specific collection of Exchanges);
  - The Service Area(s) of CCN holders, the Incumbent Local Exchange Carriers ILECs;
  - The service areas of all ILECs in Texas; or
  - The entire State of Texas.
  - **DO NOT** describe your service area by listing counties, metropolitan areas, or subdivisions.
- **Question #12:** This response requires a number. If the applicant has no intrastate switched access minutes, then the answer is “zero” or “none”.
- **Question #15:** Descriptions of key personnel generally leave out at least one of the following required pieces of information:
  - Name;
  - Position or title in the company;
  - Years of Telecommunications Experience; and
  - Type of Telecommunications Experience.
- **Question #16:** The Quality of Service Questionnaire must always be attached.

**12. What are the financial requirements for a company to qualify for a COA or an SPCOA?**

SPCOA (reseller)

- A new company must have \$25,000 in assets to qualify for a SPCOA for reselling telephone service.
- A company that has been in business for two years or more, it may qualify with \$10,000 in assets, if it can show that its been profitable by the standards in the PUC rule 26.111(d)(1)(A-F).

COA or an SPCOA (facilities based and resale). The applicant must have \$100,000 in assets.

**13. If my company is new, how can I demonstrate that it's been profitable?**

The standards relating to profitability only apply to companies that have been in business awhile. New companies obviously cannot demonstrate profitability.

**14. Does a company have to satisfy all of the standards of rule 26.109(d)(1)(A-F) and 26.111(d)(1)(A-F) to be qualified financially?**

No, it is not necessary to satisfy all of the standards. The listed standards are a suggested means of showing that the company has the required cash. It's possible that a strong demonstration satisfying just one of the standards would be sufficient.

**15. If the company is using a letter of credit or bank loan to meet the cash requirement, does it have to actually draw the money down into its cash account?**

No, all that is required is that the loan be available for a period of at least twelve months beyond the time that the applicant expects to get its certificate.

**16. What is the meaning of a third party in the Question 17 of the CLEC application?**

This question and other questions relating to financial qualifications (questions 17-24), seek to determine the credit-worthiness of the person or company that will be providing a guarantee to the applicant's debt. An applicant must show that the guarantor has the ability and the intention of providing financial support sufficient to meet the required cash requirements of the certificate the applicant is applying for.

**17. Must a Tariff be filed with the SPCOA/COA Application?**

No. Tariffs and/or price sheets are filed **separately under Control No. 27385**, after the SPCOA or COA application is approved and before the now-certificated company begins to do business in Texas. For information on tariffs and/or price sheets, contact:

- Janis Ervin, Office of Regulatory Affairs/Telephone Industry Analysis (512) 936-7372 or [janis.ervin@puc.state.tx.us](mailto:janis.ervin@puc.state.tx.us)
- John Costello, Office of Regulatory Affairs/Telephone Industry Analysis (512) 936-7377 or [john.costello@puc.state.tx.us](mailto:john.costello@puc.state.tx.us)

## **The Most Common Filing Mistakes**

### **18. Applicants should carefully review Procedural Rules 22.71 (Filing of Pleadings and Other Materials) and 22.71 (Formal Requests of Pleadings to be Filed with the Commission).**

PUC Procedural Rules: <http://www.puc.state.tx.us/rules/procrules/index.cfm>

- Applicants often forget to leave one copy unbound without staples, tabs or separators. This unbound copy should NOT be the original. This unbound copy is used by Central Records to scan into the AIS system.
- Applicants often forget to bind or submit the copies of the applications in folders or notebooks.
- Applicants do not file the required number of copies. One original and six copies (a total of Seven) must be filed with Central Records.
- Applicants do not number all the pages of the unbound copy consecutively; beginning with the first page of the document, including all attachments. Handwritten numbers are acceptable.
- Applicants forget to file all tables, graphs, charts, spreadsheets, illustrations, drawings, and other objects not electronically integrated into the text portions of a document as referenced attachments. Oversized documents should not be filed electronically, but as referenced attachments.
- Applicants forget to label all diskettes (for electronic filings) with the control or docket number (if known), the company name, and the name of the authorized representative submitting the document.
- Applicants forget to file all information, whether required by order or requested by Commission staff in Central Records. Information sent directly to Commission staff is not considered filed with the Commission. Failure to file required information in Central Records can result in a docket being denied or dismissed.
- **No information submitted under a CLAIM OF CONFIDENTIALITY should be submitted electronically.** When filing Confidential Information, applicants must follow the procedures set out in Procedural Rule 22.71(d). If you have any questions concerning the filing of confidential information, contact the Confidential Documents Manager, Ms. Carol Milner ([carol.milner@puc.state.tx.us](mailto:carol.milner@puc.state.tx.us)).

### **19. Questions about filing documents should be directed to:**

Central Records – (512) 936-7180

**20. Questions about the electronic filings process, which is required for all filings that are ten pages or longer.**

Information on this electronic filing process, known as the Interchange, is available at <http://www.puc.state.tx.us/interchange/index.cfm>.

Applicants experiencing difficulties with the Interchange should contact the help desk by electronic mail. That address is: [helpdesk@puc.state.tx.us](mailto:helpdesk@puc.state.tx.us)

## **Amendment Applications to COAs or SPCOAs**

Substantive Rules 26.113 and 26.114 discuss amendment applications. To review amendment applications see: <http://www.puc.state.tx.us/rules/subrules/telecom/index.cfm>

**21. What are the most common mistakes made when filing a COA or SPCOA Amendment Application?**

The most frequently made mistake when filing an amendment application is the company filing the application. Only the certificated company can file an amendment to its own COA or SPCOA certification.

Amendment Applications must be filed with the Commission for any of the following changes:

### **Change of Ownership: Sale, Transfers or Mergers**

Technically speaking, you cannot sell or purchase a COA or SPCOA certification. The Commission allows a certificated company to transfer its certification to another company, only if the purchasing company qualifies to receive certification. The certificated company is required to file an amendment when it sells or transfers the controlling interest of its company. The amendment application requires the certificated company to fill out Question #1 and the remaining information should be supplied by the purchasing company. The CLEC application instructions state which questions must be answered.

The current Amendment process combines two filing processes: a relinquishment filing from the selling company and a certification filing for the purchasing company. If the purchasing company submits the amendment application, it must do so as an Authorized Representative of the selling company, or the application process will be suspended until the application is filed properly by the certificated company or its authorized Representative.

### **Discontinuance of Service or Relinquishment**

A certificated company wanting to discontinue service or relinquish its certification is required to file an amendment application and continue operating until it receives written permission from the Commission to cease operations. Companies that go bankrupt and stop providing service are required to file an amendment application requesting relinquishment of their certification.

### **Change of Control, Corporate Restructuring**

A certificated company is required to file an amendment when there is a change in the controlling interest of the company. Corporate restructuring can cause a change in control of the certification, depending on which level on the company received the certification. If the company was certificated at the at the parent level, then most corporate restructuring will not result in a change of control. If the company was certificated at a subsidiary level, then most corporate restructuring will result in a change of control. It is the responsibility of the certificated company to understand and determine what is required.

### **Change in Type of Provider**

If a certificated company wants to upgrade its type of provider from resale only or data only into facilities-based [which includes reselling of unbundled network elements (UNEs)], the certificated company must file an amendment to seek approval of the upgrade, before it can install and use its own equipment or resell UNEs.

### **Change in Service Area**

If a certificated company wants to expand or diminish its existing service area, it must file an amendment seeking approval.

### **Name changes**

If a certificated company wants to change or modify its certificated name, it must file an amendment seeking approval.

*The certificated name shall be used on all printed materials such as letterhead, telephone bills, posters, brochures, and advertising. The certificated name shall be used when answering the telephone, advertising, or relating to the public. The company cannot abbreviate its certificated name, use initials, or in any way modify its certificated name, without seeking and receiving approval from the Commission.*

## **Information about Taxes and Business Registrations**

### **22. Where do I get information about the Taxes my new CLEC company will be responsible for?**

For Taxes such as Sales Tax, Franchise Tax, Telecommunications Tax, etc.; contact the Texas Comptroller's Office (800-252-5555) for explanations, help, and forms.

### **23. Should I register my company name with the Secretary of State (SOS)?**

Yes. If you are requesting to serve an area larger than one county, it is advisable to register your company's name with the SOS (512-463-5555) to make sure your name isn't already taken and reserve the right to continue using that name throughout the State of Texas.

### **24. How do I contact the State Agencies listed in Question Nos. 28 and 29?**



**TEXAS COMPTROLLER'S OFFICE**

**Truda Senter**  
111 East 17<sup>th</sup> Street  
P.O. Box 13528  
Austin, Texas 78711-3528  
463-4755  
Fax# 463-4978  
truda.senter@cpa.state.tx.us  
Tax Assistance 463-4600

**TEXAS SECRETARY OF STATE**

**Carmen Flores (Attorney)**  
1019 Brazos  
P.O. Box 13697  
Austin, Texas 78711  
463-5588  
cflores@sos.state.tx.us  
To check on Charter Numbers for Corporations, call 463-5555  
Back-up number call 463-5654

**Commission on State Emergency Communications (911 COMMISSION)**

**Brian Millington**  
brian.millington@csec.state.tx.us  
305-6923  
333 Guadalupe Street  
Suite 2-212  
Austin, Texas 78701-39421  
512-305-6911  
Fax Number: 1-512-305-6937  
[www.911.state.tx.us](http://www.911.state.tx.us)

**Texas USF Administrator (Solix, Inc.)**

**800-899-6078**  
**Frank Garofalo**  
State Program Operations  
Solix, Inc.  
100 South Jefferson Road  
P.O. Box 902  
Whippany, New Jersey 07981  
[fgarofa@solixinc.com](mailto:fgarofa@solixinc.com)  
973-581-5225 - Voice  
973-599-6504 - Fax

**OCN Numbers and Company Codes**

**Melanie Proehl-Steinhart**  
973-884-8355