

PUBLIC UTILITY COMMISSION OF TEXAS
Project No. 35246, Repeal and Revision of Chapter 26, Subchapter E
Staff Strawman of PUC SUBST. R. 26.101, 26.102, 26.107, and 26.111

§26.101. Certificate of Convenience and Necessity Criteria.

- (a) **Scope and Purpose.** In addition to the certificates of convenience and necessity (CCN) granted as of September 1, 1975, the commission may grant a CCN to provide local exchange telephone service, basic local telecommunications service or switched access service pursuant to Public Utility Regulatory Act (PURA), Chapter 54, Subchapter B.
- (b) **Certificates of Convenience and Necessity for new service areas and facilities.**
 - (1) The commission may issue a certificate convenience and necessity (CCN) only if it finds that the CCN is necessary for the service, accommodation, convenience, or safety of the public and complies with the requirements in the PURA §54.054 (relating to Grant or Denial of Certificate).
 - (2) The commission may grant a CCN as requested, refuse to grant it, or grant it for the construction of a portion of the requested system, facility, or extension, or for the partial exercise of the requested right or privilege.
- (c) **Non-exclusivity of CCN.** A CCN granted under this section shall not be construed to vest exclusive service or property rights in the area certificated. The commission may grant additional certification to another utility or utilities for all or any part of the area certificated under this section, upon a finding of public convenience and necessity.
- (d) **Name on Certification.** All local exchange telephone service, basic local telecommunications service, and switched access service provided under a CCN shall be provided in the name under which certification was granted by the commission. The commission shall grant the CCN certificate in only one name.
 - (1) The applicant must provide the following information from its registration with the Texas Secretary of State, foreign secretary of state or county, as applicable:
 - (A) Form of business being registered (e.g. corporation, company, partnership, sole proprietorship, etc.);
 - (B) Any assumed names;
 - (C) Certification/file number; and
 - (D) Date business was registered.
 - (2) The requested certificate name shall not be deceptive, misleading, vague, inappropriate, confusing or duplicative of an existing Certificated Telecommunications Provider (CTP).

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- (3) Commission staff will review any name in which the applicant proposes to do business. If staff determines that any requested name does not meet the requirements of subparagraph (2) of this section, it shall notify the applicant that the requested name may not be used by the applicant. The applicant will be required to amend its application to provide at least one suitable name in order to be certificated.
- (e) **Affiliate Guidelines for CCN Holders.** The following affiliate guidelines apply to persons and entities holding a CCN and their affiliates that either hold or are applying for a certificate of operating authority (COA) or a service provider certificate of operating authority (SPCOA) under PURA Chapter 54:
- (1) Multiple certificates in a single service area. An affiliate of a CCN holder may hold a COA or SPCOA for all or any portion of a service area of the CCN holder.
 - (2) Structural separation. An affiliate of a CCN holder may hold a COA if the holder of the CCN is in compliance with applicable federal law and Federal Communications Commission (FCC) rules governing affiliates and structural separation.
 - (3) Service limitation. An affiliate of a CCN holder that serves more than five million access lines in this state must abide by the service restrictions and limitations set forth in PURA §54.102(e) (relating to Application for Certificate of Operating Authority).
 - (4) Price for services. An affiliate of a CCN holder may not directly or indirectly sell any regulated product or service that it purchased from the CCN holder to any non-affiliate at any rate or price less than the price that the affiliate paid to the CCN holder.
 - (5) If the CCN holder is not in compliance with applicable federal law and FCC rules governing affiliates and structural separation, the commission shall not grant a COA to the affiliate.
- (f) **Amending a CCN.** The commission may amend any certificate issued under this section if it finds that the public convenience and necessity requires such amendment. Pursuant to PURA Chapter 54 Subchapter B, CCNs holders must amend their certificates for:
- (1) Certificated Name Change. This includes a change of the corporate name or assumed name of the certificate holder.
 - (2) Minor Service Area Boundary (SAB) Change. A minor SAB change is a geographic change affecting less than 1% of the total number of customers in the subject exchange(s). Minor service area boundary amendment applications must be jointly filed by the affected CCN holders and, at a minimum, contain the following information:

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- (A) Legal name and all assumed names under which the applicant conducts its business;
 - (B) Business office address, primary telephone number, fax number, website address and primary email address;
 - (C) Business regulatory contact(s), including business address, primary phone number and primary email address;
 - (D) Reason(s) for the SAB change request;
 - (E) Clear and concise written description of the geographic location of the SAB change. The description must be a metes and bounds description of the boundary change;
 - (F) Maps (minimum size of 8 1/2" x 11") of the SAB change which identify the existing and proposed boundaries clearly and conspicuously. At a minimum, the applicant must provide a county map and expanded view(s) that clearly and conspicuously identifies the boundary change. Each map must clearly and conspicuously illustrate the location of the area for which the amendment is being requested, including but not limited to, geographic landmarks, municipal and county boundary lines, streets, roads, highways, railroad tracks, and any other readily identifiable points of reference, unless no such references exist for the geographic area. The maps of the SAB change must be submitted in hard copy and, upon request by Staff, in compatible electronic format; and
 - (G) Notice of the proceeding and notice to customers. Published notice must identify the assigned docket number and must comply with the requirements of P.U.C. PROC. R. § 22.52(b) (relating to Notice in Licensing Proceedings). Customers being transferred from one utility to another shall also be given notice in accordance with P.U.C. SUBST. R. §26.130(k) (relating to Selection of Telecommunications Utilities).
- (3) Sale, transfer, merger. Sale, transfer, merger, assignment, or lease of a controlling interest in a CCN or the sale, transfer, or lease of a controlling interest in the business holding the CCN, hereinafter referred to as STM.
- (A) Chapter 58 electing utilities must file a written notification with the commission no later than 30 days after the STM has closed.
 - (B) CCNs for Non-Chapter 58 utilities are not transferable without approval of the commission and shall continue in force until further order of the commission. Non-chapter 58 utilities involved in an STM must file a CCN amendment. The CCN

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amendment must be filed jointly by the utilities involved in the STM, and comply with the requirements set forth in PURA §§14.101 and 51.010 (relating to Report of Certain Transactions and Commission Investigation of Sale, Merger, or Certain Other Actions).

(g) Reporting requirements.

- (1) Contact Information. Each CCN holder must maintain accurate contact information. At a minimum, the CCN holder is required to report a current regulatory contact person, complaint contact person, primary and secondary emergency contact, operation and policy migration contact, business physical address, primary business telephone number, toll-free customer service number, and primary email address. Additional information for tertiary emergency contact, separate mailing address, and additional company contact information are optional.
 - (A) Due date for Contact Information. After January 1st and before April 30th of each year, a CCN holder must electronically submit its current contact information to the commission.
 - (B) Updates to Contact Information. Contact information must be updated not later than the 30th day after the date of any change to the required information in paragraph (1) above. The CCN holder must enter the required information on the commission's website.
- (2) Termination/Disconnection Notice. CCN holders must file a copy of the termination/disconnection notice sent to certified telecommunications providers (CTP) within two business days following the issuance of the notice. The service termination/disconnection notice must be filed in the project established by Staff.
- (3) Bankruptcy Notification. CCN holders that have filed a petition of bankruptcy must file a notice of bankruptcy in a project established by Staff. The notice must be filed not later than the fifth business day after the filing of the bankruptcy petition. The notice of bankruptcy must include, at a minimum, the following information:
 - (A) The name of the certificated company filing for bankruptcy, date and state in which bankruptcy was filed, type of bankruptcy (e.g. Chapter 7, 11, 13), the bankruptcy case number; and

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(B) The number of affected customers, the type of service being provided to the affected customers, and name of the provider(s) of last resort associated with the affected customers.

(h) Compliance

(1) Record retention. A CCN holder must maintain a copy of records required by applicable state or federal laws and regulations for a period of not less than 24 months. The CCN holder must provide an accurate and complete copy of such records not later than the 21st day after a request from Staff. Unless otherwise prescribed by the commission or its authorized representative, all records required by this subchapter shall be provided to the commission within 15 calendar days of its request.

(j) Revocation or suspension. The commission may revoke or amend, after notice and hearing, any certificate issued under this section if the certificate holder has never provided or is no longer providing service in all or any part of the certificated area.

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§26.102. Pay Telephone Service Providers (PTS) Registration.

- (a) **Scope and Purpose.** This section applies to the registration of pay telephone service (PTS) providers pursuant to Public Utility Regulatory Act (PURA) Chapter 55, Subchapter H, §§ 55.171 - 55.180 and Chapter 26, Subchapter N, §§ 26.341 - 26.347 of this title (relating to Pay Telephone Services).
- (b) **Registration Requirement.** All PTS providers must submit a PTS Registration before providing Pay Telephone Services in the State of Texas. If the PTS registration holder has any change during the year to the information provided in the registration, then the PTS registration holder must update its registration information within 30 days of the change.
- (c) **Annual Re-registration.** PTS registrations expire annually on August 1st. Each PTS provider must renew its registration with the commission between January 1 and July 31st of each calendar year.
- (d) **Disclosure of location.** Registration requires disclosure of the location of each of the registrant's pay telephones by county. If a registrant asserts confidentiality of information related to the physical location of pay telephones it must file this information in accordance with P.U.C. PROC. R. 22.71.
- (e) **Network access.** Certificated Telecommunications Providers (CTPs) shall provide pay telephone access service (PTAS) to a PTS provider that provides its commission-issued PTS registration number to the CTP.
- (f) **Compliance**
 - (1) Providing copies of records. A PTS provider must maintain a copy of records required by applicable state or federal laws and regulations for a period of not less than 24 months. Unless otherwise prescribed by the commission or its authorized representative, all records required by this subchapter shall be provided to the commission within 15 calendar days of its request.
- (g) **Revocation or suspension.** If the commission finds that a PTS provider is repeatedly in violation of PURA or commission rules, the commission may suspend or revoke the PTS registration and may direct all CTUs to discontinue provision of pay telephone access service to the PTS provider.

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§ 26.107. Interexchange Carriers (IXCs), Prepaid Calling Services Companies (PPC), & Other Nondominant Telecommunications Carriers Registration.

- (a) **Scope and Purpose.** This section applies to the registration of providers of intralata and interlata long distance telecommunications services, prepaid calling services companies pursuant to P.U.C. SUBST. R. 26.34 (relating to Telephone Prepaid Calling Services), and other telecommunications services that do not require certification pursuant to the Public Utility Regulatory Act (PURA) Chapter 54, Subchapter C; except as noted in PURA § 51.002(10) (relating to Definitions).
- (b) **Registration Requirement.** All nondominant carriers must register with the commission by providing the information set forth in paragraphs (1-6) of this subsection by no later than the 30th day after commencing service in the State of Texas. The nondominant registration holder must report to the commission any changes to the information provided in its registration within 30 days of the change.
- (1) **Registered Name.** A nondominant carrier may register in only one name.
 - (A) The applicant shall provide the date the requested name was accepted, the certification/file number assigned to the registration and any assumed names registered with the Texas Secretary of State, foreign secretary of state or county, as applicable.
 - (B) The requested registration shall not be deceptive, misleading, vague, or duplicative of an existing certificated telecommunications provider (CTP) or other existing registrants.
 - (C) Commission staff will review any name in which the applicant proposes to do business. If staff determines that any requested name does not meet the requirements of subparagraph (2) of this section, it shall notify the applicant that the requested name may not be used by the applicant. The applicant will be required to amend its application to provide at least one suitable name in order to be certificated.
 - (2) **Registration Number.** The commission will assign a PUC registration number to each new registrant upon completion of the registration process;
 - (3) **Contact Information.** Contact information must include, but not be limited to: business office information (contact's name, contact's title, business and mailing address, primary phone number, fax number and primary email address), complaint contact, regulatory

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contact, primary and secondary emergency contacts and a toll-free customer service number;

- (4) Federal Carrier Identification. Registrant must provide the FCC Carrier Identification Code (CIC) or National Exchange Carriers Association (NECA) Operating Carrier Numbers (OCNs), if available; and
 - (5) Telecommunications Affiliates. Registrant must provide a list of all telecommunications affiliates that operate in Texas with a description of the relationship to the registrant, and an organizational chart, if available.
- (c) **Annual Re-Registration.** Nondominant registrations expire annually on May 1st. Each nondominant carrier must re-register with the commission between January 1st and April 30th of each year.
- (d) **Amendments to Registration**
- (1) Name change. If a registrant proposes to change its name, it must file a written notification and provide at a minimum: its current registered name and registration number, the new registered name, and an explanation for the requested name change.
 - (2) Cancellation of a Registration. If a registrant proposes to cancel its registration it must file a written notification and provide at a minimum: its current registered name, registration number, and explanation of the requested cancellation. The explanation of the cancellation must include the disposition of all affected customers, whether notice was provided to customers, a copy of the notice provided to customers, whether any credits or deposits are outstanding, and the disposition of credits or deposits.
- (e) **Reporting Requirements.**
- (1) Tariff, Schedule or Price List. All nondominant carriers must file a tariff, service schedule or price list in the project established by staff. This information must be kept updated and current at all times. Each tariff, service schedule or price list must contain the following information:
 - (A) Registered name;
 - (B) Registration number;
 - (C) Description of the type(s) of communications service provided. For each service listed, provide the locations in the state, by city, where the service is being provided. If service is provided statewide, indicate such; and

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- (D) List of all recurring and non-recurring rates for each service provided.
 - (2) Cancellation of a Tariff, Schedule or Price Sheet. If a registrant proposes to cancel a tariff, schedule or price sheet it must file and provide its current registered name and registration number, and an explanation for the requested cancellation.
 - (3) Bankruptcy Notification. Nondominant carriers that have filed a petition of bankruptcy must file a notice of bankruptcy in a project established by staff. The notice must be filed not later than the fifth business day after the filing of the bankruptcy petition. The notice of bankruptcy must include, at a minimum, the following information:
 - (A) The name of the nondominant carrier filing for bankruptcy, date and state in which bankruptcy was filed, type of bankruptcy (e.g. Chapter 7, 11, 13), bankruptcy case number;
 - (B) The number of affected customers, the type of service being provided to the affected customers, and name of the provider(s) of last resort associated with the affected customers.
- (f) **Compliance**
- (1) Record Retention. A registrant must maintain a copy of records required by applicable state or federal laws and regulations for a period of not less than 24 months. Unless otherwise prescribed by the commission or its authorized representative, all records required by this subchapter shall be provided to the commission within 15 calendar days of its request.
- (g) **Revocation or suspension.** The commission may suspend or revoke the registration pursuant to PURA Chapter 17, if the commission finds that a registrant is in violation of PURA or commission rules.

§26.111. Certificate of Operating Authority (COA) and Service Provider Certificate of Operating Authority (SPCOA) Certification.

- (a) **Scope and purpose.** This section applies to the certification of persons and entities to provide local exchange telephone service, basic local telecommunications service, and switched access service as holders of certificates of operating authority (COAs) and service provider certificates of operating authority (SPCOA) established in the Public Utility Regulatory Act (PURA), Chapter 54, Subchapters C and D.
- (b) **Definitions**
- (1) **Affiliate** – An affiliate of, or a person affiliated with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under the common control with, the person specified.
 - (2) **Control** – The term control (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities, by contract, or otherwise.
 - (3) **Guarantor** – a person providing a guaranty agreement, business financial commitment, or a credit support agreement providing financial support to a COA or SPCOA or applicant for COA or SPCOA certification pursuant to this section.
 - (4) **Person** – includes an individual and any business entity, including and without limitation, a limited liability company, a partnership of two or more persons having a joint or common interest, a mutual or cooperative association, but does not include a municipal corporation.
 - (5) **Principal** – a person or member of a group of persons that controls the person in question.
- (c) **Ineligibility for certification.**
- (1) An applicant is ineligible for a COA or SPCOA if the applicant is a municipality.
 - (2) An applicant is ineligible for a COA if the applicant has not created a proper separation of business between itself and an affiliate holder of a certificate of convenience and necessity as required by PURA §54.102 (relating to Application for Certificate).
 - (3) An applicant is ineligible for a SPCOA if the applicant, together with its affiliates, has more than 6.0% of the total intrastate switched access minutes of use as measured for the most recent 12-month period.
 - (4) The commission will not grant an SPCOA to a holder of a:
 - (A) CCN for the same territory; or

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(B) COA for the same territory.

(d) Standards for granting certification to COA and SPCOA applicants.

(1) Limiting the scope of COAs and SPCOAs. If, after considering the factors in this subsection, the commission finds it to be in the public interest to do so, the commission may:

(A) Limit the geographic scope of the COA.

(B) Limit the scope of an SPCOA's service in at least the following ways:

(i) Facilities-based; resale-only; data-only; geographic scope; or some combination of the preceding list, as appropriate.

(2) The commission shall consider the following factors listed in subparagraphs (A-H) below in deciding whether to grant and how to condition or limit a COA or SPCOA to an applicant proposing to serve an exchange:

(A) Whether the applicant has satisfactorily provided all of the information required in the Application for a COA or SPCOA.

(B) Whether the applicant is financially qualified. To prove financial qualifications, the Applicant shall provide sufficient evidence to establish the following:

(i) Facilities-based providers must possess the greater of \$100,000 (\$25,000 for resale-only providers) in unused cash or cash equivalent resources or sufficient unused cash or cash equivalent resources to meet start-up expenses, working capital requirements and capital expenditures. The unused cash or cash equivalent resources must be liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for the first 12 months of its Texas operations; or

(ii) Applicant is an established business and is able to demonstrate evidence of financial stability for existing operations for the 24-month period immediately preceding the date of the application. Applicant may demonstrate financial stability by submitting a balance sheet and income statement audited or reviewed by a certified public accountant. The demonstration of financial stability shall establish all of the following:

(I) A long-term debt to capitalization ratio of less than 60%;

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- (II) A return-on-assets ratio of 10% or greater; and
 - (III) The greater of \$50,000 (\$10,000 for resale-only providers) in unused cash or cash equivalent resources or sufficient unused cash or cash equivalent resources to meet start-up expenses, working capital requirements and capital expenditures. The unused cash or cash equivalent resources must be liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for a minimum of the first 24 months of its Texas operations.
- (C) Financial instruments that meet the cash requirements established in this section.
- (i) Applicants for COAs or SPCOAs may use any of the financial instruments set out in subparagraphs (I - VI) of this paragraph to satisfy the cash requirements established in this rule.
 - (I) A cash account statement or a certificate of deposit held by the applicant that clearly identifies the financial institution where the account is maintained;
 - (II) An irrevocable stand-by letter of credit issued by a bank or other financial institution. The irrevocable stand-by letter of credit must be irrevocable for a period not less than 12 months beyond certification of the applicant by the Commission;
 - (III) A line of credit or other loan, issued by a bank or other financial institution, irrevocable for a period not less than 12 months after the date of the applicant's certification by the commission and payable on an interest-only basis for the same period; or
 - (IV) A loan issued by a subsidiary, affiliate, or a corporation holding controlling interest in the applicant, irrevocable for a period not less than 12 months after the date of certification of the applicant by the commission and payable on an interest-only basis for the same period; or

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- (V) A guaranty agreement issued by a shareholder, principal, subsidiary, affiliate or a corporation holding controlling interest in the applicant, irrevocable for a period not less than 12 months beyond certification of the applicant by the commission.
 - (ii) To the extent that the applicant relies upon a loan or guaranty referred to in paragraph (i)(V) and (i)(VI) of this subsection, the applicant shall provide evidence sufficient to establish that the lender or guarantor possesses sufficient unused cash or cash equivalent resources to fund the loan or guaranty.
 - (iii) All financial instruments listed in subparagraph (i)(I – VI) of this subsection shall be unencumbered by pledges for collateral and shall be subject to verification and review by the commission prior to certification of the applicant and for a period not less than 12 months after the date of certification. Unused cash or cash equivalent resources must be authenticated by independent third party documentation. Failure to comply with this requirement may void an applicant’s certification or result in other action as the commission deems in the public interest, including, but not limited to, assessment of reasonable penalties and all other available remedies under PURA.
- (D) Whether the applicant is technically qualified. A facilities-based certification is required for a provider using its own equipment, unbundled network elements platform (UNE-P), or E9-1-1 database management associated with selective routing services. The commission shall determine whether an applicant possesses technical qualifications to be granted a facilities-based SPCOA or COA certification or whether applicant is restricted to a resale-only COA certification, based upon a review of the following information:
- (i) Principals or permanent employees in managerial positions whose combined experience in the telecommunications industry equals or exceeds 5 years for facilities-based providers and one year for resale-only providers. Information for such personnel must include name, title, number of years of

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- telecommunications or related experience, and type of experience;
- (ii) Any complaint history, disciplinary record and compliance record during the 60 months immediately preceding to filing of the application regarding the applicant; the applicant's principals; and the applicant's affiliates that provide or have provided utility-like services such as telecommunications, electric, gas, water, or cable service. The complaint history, disciplinary record and compliance record shall include information from any federal agency or other regulatory agencies in states where the applicant is doing business or has conducted business in the past including the Texas Secretary of State, Texas Comptroller's Office, and the Office of the Texas Attorney General. Relevant information shall include the number of complaints, status of complaint, resolution of complaint, and any sanctions or penalties levied in response to the complaint. The commission may also consider any complaint information on file at the commission;
 - (iii) Affirmation that the applicant, its telecommunications or utility-like affiliates, predecessors in interest, shareholders, and principals are registered and in good standing with the Texas Comptroller's Office, active in the Texas Secretary of State files, and current in its Texas Universal Service Fund assessment.
 - (iv) Summary of any history of bankruptcy of the applicant's principals, and/or affiliates in the 60-month period immediately preceding the application;
 - (v) Summary of any dissolution, merger, or acquisition of the applicant, the applicant's principles and/or any predecessors in interest in the 24-month period immediately preceding the application;
 - (vi) A statement indicating whether the applicant or applicant's principals are currently under investigation or been fined, sanctioned or penalized, in this state or in another state or jurisdiction for violation of any state, federal, deceptive trade or consumer protection law or regulation; and

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- (vii) Disclosure of whether the applicant or applicant's principals have been convicted or found liable for fraud, theft, larceny, deceit, or violations of customer protection laws, or deceptive trade laws in any state.
 - (E) Whether the applicant has committed to meet the commission's quality of service standards as listed on the quality of service questionnaire. Quality of service standards also includes E9-1-1 compliance and local number portability capability.
 - (F) Whether the applicant has committed to meet the customer protection rules and disclosure requirements as set forth in Chapter 26, Subchapter B, of this title (relating to Customer Service and Protection).
 - (G) Whether certification of the applicant is in the public interest.
 - (H) Data-only providers will not be subject to the requirements for E9-1-1 and local number portability compliance as applicable to switched voice services.
 - (3) While an application for a certificate is pending, an applicant shall inform the commission of any material change in the information provided in the application within ten business days of any such change.
 - (4) Except where good cause exists to extend the time for review, the commission will enter an order approving, rejecting, or approving with modifications a new or amendment application for a COA or SPCOA not later than the 60th day after the date the application for the certificate is filed. The commission may extend the deadline on good cause shown.
- (e) **Certificate Name.** All local exchange telephone service, basic local telecommunications service, and switched access service provided under a COA or SPCOA must be provided in the name under which certification was granted by the commission. The commission shall grant the COA or SPCOA certificate in only one name.
- (1) The applicant must provide the following information from its registration with the Texas Secretary of State, foreign secretary of state or county, as applicable:
 - (A) Form of business being registered (e.g. corporation, company, partnership, sole proprietorship, etc.);
 - (B) Any assumed names;
 - (C) Certification/file number; and
 - (D) Date business was registered.

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- (2) Business names shall not be deceptive, misleading, vague, inappropriate, confusing or duplicative of existing name currently in use or previously approved for use by a Certificated Telecommunications Provider (CTP). No more than five assumed names may be authorized for use by any COA or SPCOA at one time.
- (3) Commission staff will review any name in which the applicant proposes to do business. If staff determines that any requested name does not meet the requirements of subparagraph (2) of this section, it shall notify the applicant that the requested name may not be used by the applicant. The applicant will be required to amend its application to provide at least one suitable name in order to be certificated.

(f) Amendment of a COA or SPCOA Certificate.

- (1) A person or entity granted a COA or SPCOA by the commission shall be required to file an application to amend the COA or an SPCOA in a commission approved format in order to:
 - (A) Change the corporate name or assumed name of the certificate holder.
 - (i) Name change amendments may be granted on an administrative basis, if the holder is in compliance with (d)(2)(D), above, and no hearing is requested.
 - (ii) Commission staff will review any name in which the applicant proposes to do business. If staff determines that any requested name is deceptive, misleading, vague, inappropriate, or duplicative, it shall notify the applicant that the requested name may not be used by the applicant. The applicant will be required to provide at least one suitable name or the amendment may be denied.
 - (B) Change the geographic scope of the COA and SPCOA.
 - (C) Sell, transfer, assign, or lease a controlling interest in the COA or SPCOA or sell, transfer or lease a controlling interest in the entity holding the COA or the SPCOA. Entities filing for this type of amendment must:
 - (i) jointly file the amendment application;
 - (ii) comply with the requirements for certification; and
 - (iii) be in compliance with Commission rules.
 - (D) Remove the resale-only restriction on a resale-only SPCOA certificate.
 - (E) Remove the data-only restriction on a data-only SPCOA certificate.

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- (F) Discontinuation of service and relinquishment of certificate, or discontinuation of optional services. See sections (i) and (j) for requirements pertaining to discontinuation of service and relinquishment of a certificate, and discontinuation of optional services.
- (2) If a COA holder sells, merges, assigns, or leases its certificate or the entity holding the certificate to an SPCOA holder with an identical geographic scope, the surviving entity shall hold a COA certificate and shall have all the obligations of a COA holder set forth under state and federal law. The surviving entity shall also notify the commission within 30 days of the sale, merger, assignment or lease.
- (3) If the application to amend is for corporate restructuring, a change in internal ownership, or an internal change in controlling interest, the applicant may file an abbreviated amendment application, unless the ownership or controlling interest involves an uncertificated company, significant changes in management personnel, or changes to the underlying financial qualifications of the certificate holder as previously approved. If the commission staff cannot make a determination of continued compliance based on the applicable substantive rules from the information provided on the abbreviated amendment application, then a full amendment application will be required.
- (4) Merger or acquisition between two certificated entities. When a certificate holder acquires or merges with another certificate holder (other than a CCN holder), the acquiring entity must file a notice within 30 days of the acquisition or merger in a project established by staff. Staff shall have 10 business days to review the notice and determine whether a full amendment application will be required. If staff has not filed, within 10 business days, a request to docket the proceeding and determination that a full amendment application is required, a notice of approval may be issued. If a COA holder merges with or acquires a SPCOA holder, the surviving entity shall hold a COA certificate and shall have all of the obligations of a COA holder set forth under state and federal law. Notice to the Commission shall include, but not be limited to:
 - (A) A joint filing statement;
 - (B) Certificated entity names, certificate numbers, contact information, and statements of compliance
 - (C) An affidavit from each certificated entity attesting to compliance of COA or SPCOA certification requirements

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- (D) A statement acknowledging that entities may not use this expedited filing option to improve their type of provider.
 - (5) No later than five working days after filing an amendment application or amendment notice with the commission, the applicant must provide a copy of the amendment application or notice to the Advisory Commission on State Emergency Communications.
 - (6) If the application to amend requests any change other than a name change, the factors as set forth in sections (c) and (d) may be considered by the Commission in determining whether to approve an amendment to a COA or SPCOA.
- (g) Non-use of certificates.** Applicants shall use their COA or SPCOA certificates expeditiously.
- (1) A certificate holder that has discontinued providing service for a period of 12 consecutive months after the date the certificate holder has initially begun providing service must file an affidavit on an annual basis attesting that it continues to possess the required technical and financial resources necessary to provide the level of service proposed in its initial application.
 - (2) A certificate holder that has not provided service within 24 months of being granted the certificate by the commission may have its certificate suspended or revoked.
- (h) Reporting requirements.**
- (1) Contact information. Each COA or SPCOA holder must provide and maintain accurate contact information. At a minimum, the COA or SPCOA holder is required to maintain a current regulatory contact person, complaint contact person, primary and secondary emergency contact, operation and policy migration contact, business physical and mailing address, primary business telephone number, toll-free customer service number, and primary email address. The COA or SPCOA holder must enter the required information on the commission's website.
 - (2) Annual Updates to Contact Information. Contact information must be updated between January 1st and before April 30th of each year. The COA or SPCOA holder must enter the required information on the commission's website.
 - (3) Tariff, schedule or price list. All COA and SPCOA holders must file a tariff, service schedule or price list under the project number

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established by staff. This information must be kept updated and current at all times. Each tariff, service schedule or price list must contain the following information:

- (A) The certificated name of the applicant;
 - (B) The certification number assigned to the applicant;
 - (C) Description of the type(s) of communications service provided. (For each service listed, provide the locations in the state (by city) where the service is originated and/or being provided. If service is provided statewide, indicate such); and
 - (D) A list of all recurring and non-recurring rates for each service provided.
- (4) Termination/disconnection notice. When terminating or disconnecting service to another CTP, COA and SPCOA holders shall file a copy of the termination/disconnection notice with the Commission not later than two business days after the notice is sent to the CTP. The service termination/disconnection notice shall be filed under a project number established by Staff.
- (5) Bankruptcy notification. COA and SPCOA holders that have filed a petition of bankruptcy must file a notice of bankruptcy in a project number established by staff. The notice must be filed not later than the fifth business day after the filing of the bankruptcy petition. The notice of bankruptcy must also include, at a minimum, the following information:
- (A) The name of the certificated company filing for bankruptcy, date and state in which bankruptcy was filed, type of bankruptcy (e.g. Chapter 7, 11, or 13), the bankruptcy case number; and
 - (B) The number of affected customers, the type of service being provided to the affected customers, and the name of the provider(s) of last resort associated with the affected customers.
- (6) Access Line Reports. A certificate holder shall also file monthly reports as required by §26.465 of this title (relating to Methodology for Counting Access Lines and Reporting Requirements for Certified Telecommunications Providers) and §26.467 (relating to Rates, Allocation, Compensation, Adjustments and Reporting).
- (i) **Standards for discontinuation of service and relinquishment of certification.** A COA or SPCOA holder may cease operations in the utility's service area. However, COA and SPCOA certificate holders shall maintain

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operations until commission authorization to cease operations has been obtained. A COA or SPCOA holder that ceases operations and relinquishes its certification shall comply with PURA §54.253 (relating to Discontinuation of Service by Certain Certificate Holders).

- (1) Before the certificate holder ceases operations, it must give notice of the intended action to the commission, each affected customer, the Commission on State Emergency Communications, each wholesale provider of telecommunications facilities or services from which the certificate holder purchased facilities or services, the Texas Universal Service Fund, and the Office of Public Utility Counsel (OPC).
 - (A) The notification letter shall clearly state the intent of the certificate holder to cease providing service.
 - (B) The notification letter shall give customers a minimum of 61 days notice of termination of service, and the date of termination of service shall be clearly stated in the notification letter.
 - (C) The notification letter shall inform customers of the carrier of last resort or make other arrangements to provide service as approved by the customers.
- (2) Before the utility ceases operations notification to the commission is required and shall consist of filing an amendment, which provides the following information:
 - (A) Name, address, and phone number of certificate holder;
 - (B) COA or SPCOA certificate number being relinquished;
 - (C) The commission docket number in which the COA or SPCOA was granted;
 - (D) A statement regarding the disposition of customer credits and deposits, and a sworn statement stating the authority to relinquish certification, that proper notice of the relinquishment has been provided to all customers, and that the information provided in the amended application is true and correct.
- (3) All customer deposits and credits shall be returned within 60 days of notification to cease operations and relinquish certification.
- (4) Any switchover fees that will be charged to affected customers shall be paid by the certificate holder relinquishing the certificate.
- (5) If the relinquishing certificate holder has participated in the universal service fund (USF), it must obtain a letter or release from the USF Administrator.

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- (6) Upon the certificate holder receiving commission authorization to cease operations, the relinquishing certificate holder shall void its existing interconnection agreement(s).
- (j) **Standards for discontinuing optional services.** A COA or SPCOA certificate holder discontinuing optional services shall comply with PURA §54.253 (relating to Discontinuation of Service by Certain Certificate Holders).
- (1) Notification to the commission is required and shall consist of filing an amendment, which provides the following information:
- (A) Name, address, and phone number of certificate holder;
- (B) COA or SPCOA certificate number being amended;
- (C) The commission docket number in which the COA or SPCOA was granted;
- (D) A sworn statement stating the authority to discontinue service options, that proper notice of the discontinuation of service has been provided to all customers, and that the information provided in the amended application is true and correct.
- (2) Notification to each customer:
- (A) The notification letter shall clearly state the intent of the certificate holder to cease an optional service and a copy of the letter shall be provided to the commission and OPC.
- (B) The notification letter shall give customers a minimum of 61 days notice of discontinuation of optional services.
- (3) All customer deposits and credits affiliated with the discontinued optional services shall be returned within 30 days of discontinuation.
- (4) The certificate holder shall maintain the optional services until it has obtained commission authorization to cease the optional services.
- (k) **Compliance.**
- (1) **Records Retention.** An SPCOA holder must maintain a copy of records required by applicable state or federal laws and regulations for a period of not less than 24 months. The SPCOA holder must provide an accurate and complete copy of such records not later than the 21st day after a request by commission staff.
- (l) **Revocation or suspension.** A certificate granted pursuant to this section is subject to amendment, suspension, or revocation by the commission for a significant violation of PURA or commission rules. A suspension of a COA or SPCOA certificate requires the cessation of all COA or SPCOA activities associated with obtaining new customers in the state of Texas. A revocation

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of a COA or SPCOA certificate requires the cessation of all COA or SPCOA activities in the state of Texas, pursuant to commission order. The commission may also impose an administrative penalty on a person for a significant violation of PURA or commission rules. The commission staff or any affected person may bring a complaint seeking to amend, suspend, or revoke a COA or SPCOA's certificate. Significant violations include the following.

- (1) Non-use of approved certificate for a period of 24 months, without re-qualification prior to the expiration of the 24-month period;
- (2) Verified complaints reported to the commission or the Attorney General;
- (3) Providing false or misleading information to the commission;
- (4) Bankruptcy, insolvency, failure to meet financial obligations on a timely basis, except if reasonably disputed, or the inability to obtain the financial resources needed to provide adequate service;
- (5) Violations of PURA or any commission rule or order applicable to the certificate holder;
- (6) Violation of any state law applicable to the certificate holder that affects the certificate holders' ability to provide telecommunications services;
- (7) Failure to meet commission reporting requirements;
- (8) Engaging in fraudulent, unfair, misleading, deceptive, or anticompetitive practices, or unlawful discrimination;
- (9) Switching, or causing to be switched, a customer without first obtaining the customer's permission;
- (10) Billing an unauthorized charge, or causing an unauthorized charge to be billed, to a customer's telecommunications service bill;
- (11) Failure to maintain financial resources in accordance with subsection (d)(B) of this section;
- (12) A pattern of not responding to commission inquiries or customer complaints in a timely fashion;
- (13) Suspension or revocation of a registration, certification, or license by any state or federal authority;
- (14) Conviction of a felony by the certificate holder, a person controlling the certificate holder, or principal employed by the certificate holder, or any crime involving theft, fraud, or deceit related to the certificate holder's service;
- (15) Failure to serve as a provider of last resort if required to do so by the commission; and

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- (16) Other significant violations, including the failure or a pattern of failures to meet the requirements of this section or other commission rules or orders.