



Control Number: 35882



Item Number: 96

Addendum StartPage: 0

Barry T. Smitherman
Chairman

Donna L. Nelson
Commissioner

Kenneth W. Anderson, Jr.
Commissioner

W. Lane Lanford
Executive Director



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PUBLIC UTILITY COMMISSION
FILING CLERK

Public Utility Commission of Texas

TO: Barry T. Smitherman, Chairman
Donna L. Nelson, Commissioner
Kenneth W. Anderson, Jr., Commissioner

FROM: Andrew Kang *AK*
Administrative Law Judge

RE: **Open Meeting of November 5, 2008**
Project No. 35882 – *Development of COA/SPCOA Statewide Average Switched Access Rates for November 2008 Publication Pursuant to PURA § 52.155 and PUC Substantive Rule 26.223*

DATE: October 15, 2008

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission is currently scheduled to consider this docket at an open meeting to begin at 9:30 a.m. on Wednesday, November 5, 2008, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Tuesday, October 28, 2008.

If there are no corrections or exceptions, no response is necessary.

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PROJECT NO. 35882

DEVELOPMENT OF COA/SPCOA	§	PUBLIC UTILITY COMMISSION
STATEWIDE AVERAGE SWITCHED	§	
ACCESS RATES FOR NOVEMBER	§	OF TEXAS
2008 PUBLICATION PURSUANT TO	§	
PURA § 52.155 AND P.U.C. SUBST.	§	
R. 26.223	§	

PROPOSED ORDER

Pursuant to PURA¹ § 52.155 and P.U.C. SUBST. R. 26.223, this Order establishes the weighted statewide average composite usage sensitive intrastate switched access rates (rates) that can be charged by a telecommunications utility that holds a certificate of operating authority (COA) or a service provider certificate of operating authority (SPCOA). The rates were developed by applying the methodology prescribed in P.U.C. SUBST. R. 26.223(e)(1) to the intrastate data submitted by certificate of convenience and necessity (CCN) holders. This project was processed in accordance with applicable statutes and Public Utility Commission of Texas (Commission) rules. The rates set forth in this Order are approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

1. On July 15, 2008, this proceeding was initiated to develop the weighted statewide average composite usage sensitive intrastate switched access rates pursuant to PURA § 52.155 and P.U.C. SUBST. R. 26.223.
2. On July 21, 2008, notice of this proceeding was published in the *Texas Register*.
3. The statewide average composite usage sensitive intrastate switched access rates include the following elements: originating and terminating carrier common line (CCL), originating and terminating local switching (LS), originating and terminating switched transport (TR), originating and terminating tandem switching (TS), and originating and terminating tandem switched transport (TST).

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 – 66.016 (Vernon 2007 & Supp. 2008) (PURA).

4. All CCN holders filed data in this project pursuant to P.U.C. SUBST. R. 26.223(g).
5. On October 13, 2008, Commission Staff filed a recommendation listing the current rates and proposing new rates calculated using the data CCN holders filed in this project.
6. The proposed rates were calculated according to the methodology specified in P.U.C. SUBST. R. 26.223(e)(1).

II. Conclusions of Law

1. Under PURA § 52.155 and P.U.C. SUBST. R. 26.223, COA (other than PURA Chapter 65 COA) holders and SPCOA holders may not charge a higher rate for originating and terminating intrastate switched access than the rates charged by the CCN or PURA Chapter 65 COA holder in whose territory the call originated or terminated, unless: (1) the Commission approves a higher rate; or (2) the telecommunications utility establishes statewide average composite originating and terminating intrastate switched access rates based on a reasonable approximation of traffic originating and terminating between all CCN holders.
2. P.U.C. SUBST. R. 26.223(e)(2)(A) requires the Commission to re-calculate the weighted statewide average composite usage sensitive intrastate switched access rates annually, until June 2010, based on data submitted by CCN holders.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The following statewide average composite usage sensitive intrastate switched access rates are approved:

Element	Rate
Originating Carrier Common Line	\$0.0021593
Originating Local Switching	\$0.0073271
Originating Transport ²	\$0.0010467
Terminating Carrier Common Line	\$0.0025859
Terminating Local Switching	\$0.0073271
Terminating Transport ³	\$0.0010467

2. Pursuant to P.U.C. SUBST. R. 26.223(h)(1), COA and SPCOA holders shall, within 20 days of this Order: (1) file compliance tariffs/price lists, effective 10 days from the tariff/price list filing date, with originating and terminating usage sensitive intrastate switched access rates that do not exceed the re-calculated weighted statewide average composite usage sensitive switched access rates; or (2) file an application for approval of higher rates under P.U.C. SUBST. R. 26.223(f); or (3) file compliance tariffs/price lists, effective 10 days from the tariff/price list filing date, with originating and terminating usage sensitive intrastate switched access rates that do not exceed the prevailing rates charged by the CCN holder in each territory in which the COA/SPCOA holder operates; or (4) file a letter with the Commission demonstrating that no rate revisions are necessary to comply with P.U.C. SUBST. R. 26.223.
3. Compliance tariffs shall be filed in Project No. 35882.

² The Originating Transport rate includes both Originating Tandem Switching and Originating Tandem Switched Transport.

³ The Terminating Transport rate includes both Terminating Tandem Switching and Terminating Tandem Switched Transport.

4. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other request for general or specific relief not expressly granted are denied.

SIGNED AT AUSTIN, TEXAS on the _____ day of November 2008.

PUBLIC UTILITY COMMISSION OF TEXAS

BARRY T. SMITHERMAN, CHAIRMAN

DONNA L. NELSON, COMMISSIONER

KENNETH W. ANDERSON, JR., COMMISSIONER