

# Recent Developments: Public ROW Fees for Telecom Providers

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Chapter 283 in 2003

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# Overview

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- ✍ Background
  - ✍ Law, Rules, and Process
- ✍ Enforcement
- ✍ Transmission Path Definition
  - ✍ clarifying how to classify service as access line
- ✍ Quarterly Reporting Changes
- ✍ Authorized Review Rule Status

# Background: Law & Rules

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- ✍️ Tex. Local Gov't Code, Chapter 283
  - ✍️ HB 1777 of the 76<sup>th</sup> Legislature
- ✍️ PUC Substantive Rules, Subchapter R
  - ✍️ §26.461 – *Access Line Categories*
  - ✍️ §26.463 – *Calculation and Reporting of a Municipality's Base Amount*
  - ✍️ §26.465 – *Methodology for Counting Access Lines and Reporting Requirements for Certificated Telecommunications Providers*
  - ✍️ §26.467 – *Rates, Allocation, Compensation, Adjustments, and Reporting*
  - ✍️ §26.468 – *Procedures for Standardized Access Line Reports and Enforcement Relating to Quarterly Reporting*

# Background: Process

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## *Quarterly Report*

 CTPs  PUC  Municipalities

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 End-use customer  CTP  Municipalities

## *3 Categories of Access Line*

 Cat 1: Switched Residential + Burglar Alarms

 Cat 2: Switched Nonresidential

 Cat 3: Nonswitched PTP or Private Lines

# Enforcement – All Qs 2001

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- ✍ 252 enforcement letters sent out in late 2002
- ✍ 267 CTPs in compliance for 2001 before letters
- ✍ 378 CTPs in compliance for 2001 as of Aug 2003
- ✍ 125 noncompliant CTPs in process of resolution – suspected in bankruptcy or out of business
- ✍ Possible resolution for these: relinquishment from proposed default rule

# Enforcement – All Qs 2002

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- ✍ 160 late filers
- ✍ 67 of those resolved or near-resolved
- ✍ 95 non-filers
- ✍ 54 of those resolved or near-resolved
- ✍ Other noncompliant CTPs in process of resolution
- ✍ Some are same as unresolved noncompliant CTPs from 2001



# Transmission Path Definition

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- ✍ Commission reviews definition of “access line” in Mar-Sept 2002
- ✍ Commission declines to redefine “access line” but finds need to redefine “transmission path” due to changes in technology
- ✍ Commission removes “circuit” limitation in Feb 2003
- ✍ Issue: Classifying switched services

## Access Line (related to switched lines), Tex. Local Gov't Code §283.001(1)(A)(i)

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- ✍ Unit of measurement representing each switched transmission path of the transmission media:
  - ✍ physically within a public right-of-way extended to the end-use customer's premises within the municipality
  - ✍ **allows the delivery of local exchange telephone services (LETS, as defined in PURA) within a municipality**
  - ✍ provided by means of owned facilities, unbundled network elements or leased facilities, or resale

# Local Exchange Telephone Service, PURA §51.002(5)

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- ✍ Telecom service provided within an exchange to establish connections between customer premises within the exchange, including connections between a customer premises and a long distance provider serving the exchange
- ✍ Includes tone dialing service, service connection charges, and directory assistance services offered in connection with *basic local telecommunications service* (BLTS) and interconnection with other service providers [emphasis added]
- ✍ Does not include non-voice data transmission service offered as a separate service and not as a component of BLTS, whether offered on an intraexchange or interexchange basis

# Basic Local Telecommunications Service, PURA §51.002(2)

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- ✍ flat rate residential and business local exchange telephone service, including primary directory listings;
- ✍ tone dialing service;
- ✍ access to operator services;
- ✍ access to directory assistance services;
- ✍ access to 911 service provided by a local authority or dual party relay service;
- ✍ the ability to report service problems seven days a week;
- ✍ lifeline and tel-assistance services; and
- ✍ any other service the commission determines after a hearing is a basic local telecommunications service.

# Transmission Path Definition

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- ✍ “Allows the delivery of LETS”:
  - ✍ Using the most current technology as deployed in the network at any given time, the switched service would enable the possibility of provisioning LETS (Order, Feb. 13, 2003)
  - ✍ If equipment must be modified to provision LETS, not a switched access line at that time
  - ✍ When modified to allow provisioning of LETS, line is properly classified as switched access line





# Transmission Path Definition

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## Examples of access lines:

 POTS service

 Circuit-switched data lines that allow the delivery of LETS, e.g. ISDN lines

 Packet-switched lines that have been modified to allow delivery of LETS, including 911 service through local service authority

 Nonswitched lines



# Transmission Path Definition

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- ✍ Examples of non-access lines:
  - ✍ Circuit-switched data lines that do not allow the delivery of LETS, e.g. switched 56 kbps lines
  - ✍ Packet-switched lines that have not been modified to allow delivery of LETS




# Quarterly Reporting Changes

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## Billing System

-  CTPs must maintain records to substantiate compliance with reporting requirements

## Duly Authorized Representative Certifying Report

-  Removes “best of knowledge and belief” as superfluous
-  Any affidavit based on personal knowledge
-  States that contact person in MARS is responsible




## Reconciliation Report

-  CTPs must explain current-period uncollectibles and prior-period write-offs in quarterly report



# Quarterly Reporting Changes

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## Adequate Proof

-  Underlying CTPs must obtain adequate proof that reselling CTPs are aware of reporting obligations
-  Reselling CTPs must provide upon request
-  Filed in Project No. 26329

## Designated Reporting Party

-  CTPs hiring another entity to report on their behalf must ensure that their access line counts are filed separately
-  CTPs reporting for affiliates may file aggregated counts, but only if they use the “Consolidated CTP” function to report the affiliate’s names

# Quarterly Reporting Changes

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- ✍ Report of Reselling CTP by Underlying CTP
  - ✍ Commission declined to adopt language requiring underlying CTPs to report information about reselling CTPs
  - ✍ Currently, quarterly reports provide info to municipalities about CTPs operating within city limits
  - ✍ PUC complaint process and municipal authorized review more efficient means for municipalities to acquire info when CTPs do not report correctly or at all

# Authorized Review Rule Status

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- ✍ Commission published new §26.469 to address municipal authorized review of a CTP's business records
- ✍ Comments received led to extensive modification of rule language: further workshops needed
- ✍ Commission did not adopt new rule at this time
- ✍ Another workshop forthcoming under Project No. 25433, *Rulemaking to Address Municipal Authorized Review Related to HB 1777*
- ✍ Commission will re-propose as necessary



# Review

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