

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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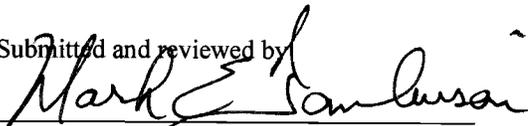
ALL Districts

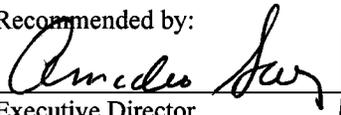
The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §27.82, relating to toll operations, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §27.82 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by

Director, Texas Turnpike Authority Division

Recommended by:

Executive Director

112492 NOV 18/10

Minute Number Date Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts
3 amendments to §27.82, concerning toll operations. The
4 amendments to §27.82 are adopted without changes to the proposed
5 text as published in the June 11, 2010 issue of the *Texas*
6 *Register* (35 TexReg 5011) and will not be republished. The
7 effective date of these amendments is March 1, 2011.

8

9 EXPLANATION OF ADOPTED AMENDMENTS

10 The department has operated toll roads in the state of Texas
11 since January of 2006. The department's past experience and
12 relationships with other toll authorities have provided the
13 agency with insight into best practices that may result in more
14 efficient management and operation of its toll systems. The
15 amendments reflect the department's efforts to enhance
16 operational efficiency and improve customer service.

17

18 Amendments to §27.82(c) remove the specific amounts listed for
19 customer account fees and provide that those fees will be set by
20 order of the Texas Transportation Commission (commission). In
21 setting those fees, the commission will consider the cost of
22 operations, including the estimated costs to the department for
23 labor, materials, storage, and bank fees, as well as the
24 requirements of project bond covenants. The amendments provide
25 for two new categories of fees - an account maintenance fee and

1 an account reactivation fee. The amendments also remove the
2 requirement that the commission review customer account fees on
3 an annual basis. These amendments add flexibility for the
4 commission to review and adjust customer account fees as
5 necessary to accommodate changes in the department's operational
6 costs.

7

8 COMMENTS

9 No comments on the proposed amendments were received.

10

11 STATUTORY AUTHORITY

12 The amendments are adopted under Transportation Code, §201.101,
13 which provides the commission with the authority to establish
14 rules for the conduct of the work of the department, and more
15 specifically, Transportation Code, §228.057(d), which provides
16 that the department may charge reasonable fees for administering
17 electronic toll collection customer accounts.

18

19 CROSS REFERENCE TO STATUTE

20 Transportation Code, Chapter 228.

1 SUBCHAPTER G. OPERATION OF DEPARTMENT TOLL PROJECTS

2 §27.82. Toll Operations.

3 (a) Toll policies. The department shall adopt policies
4 relating to toll collection and enforcement and the operation of
5 customer service centers. The policies will authorize all fees
6 imposed under this section to be paid by credit card, debit card
7 not requiring the entry of a personal identification number
8 (PIN), money order, personal or cashier's check, or cash. In
9 adopting those policies, the department shall consider:

10 (1) whether those policies will provide ease of use by
11 travelers and maximize mobility on toll projects;

12 (2) whether those policies will provide a high level of
13 customer service;

14 (3) the requirements of project bond covenants;

15 (4) cost of operations;

16 (5) whether those policies will facilitate the auditing
17 of customer service center operations and the marketing of toll
18 projects; and

19 (6) whether those policies will maximize the preservation
20 of revenue streams.

21 (b) Exception. Toll collection and enforcement policies
22 adopted by the department are not subject to the requirements of
23 §5.10 of this title (relating to Collection of Debts).

1 (c) Customer account fees. The department may charge fees
2 to customers for purposes of establishing and administering
3 electronic toll collection customer accounts. The commission by
4 minute order will establish customer account fees. In
5 establishing customer account fees, the commission will consider
6 the cost of operations, including the estimated cost to the
7 department for labor, materials, storage, and bank fees, as well
8 as the requirements of project bond covenants. [Fees will be
9 reviewed by the commission annually and adjusted if necessary.]
10 Tag fees may be temporarily waived by the department for the
11 purposes of introducing motorists to toll projects and
12 attracting new customers. Customer account fees may include
13 fees for the following items [~~be charged by the department in~~
14 ~~the following amounts~~]:
15 (1) [~~one~~] standard tags [~~tag:—\$9.65~~];
16 (2) specialty tags [~~tag:—\$20 refundable deposit~~];
17 (3) mailed or faxed account statements [~~statement:—\$1~~
18 ~~for each 5 pages or any number of pages less than 5~~];
19 (4) account maintenance; [~~email or web account statement:~~
20 ~~no charge; and~~]
21 (5) checks [~~check~~] returned for insufficient funds; and
22 [~~:—\$25.~~]
23 (6) account reactivation.

1 (d) Toll rates. Except as provided in subsection (f) of
2 this section, the commission by minute order will establish toll
3 rates for the use of a toll project. In setting toll rates, the
4 commission will consider:

5 (1) the results of traffic and revenue studies and any
6 schedule of toll rates established in a traffic and revenue
7 report;

8 (2) the requirements of project bond covenants; and

9 (3) vehicle classifications, type and location of the
10 facility, and similar criteria that apply to a specific project.

11 (e) Administrative fees. Except as provided in subsection
12 (f) of this section, the commission by minute order will
13 establish administrative fees charged to owners and lessees of
14 vehicles that use a toll project without paying the proper toll.
15 The total of all administrative fees charged for each
16 uncollected toll may not exceed \$100. Administrative fees may
17 be suspended by the department if a violator agrees to open a
18 funded account and to maintain that account in good standing,
19 and may be waived if the account is maintained in good standing
20 for the period of time determined by the department. In
21 establishing an administrative fee, the commission will consider
22 the estimated cost to the department to collect unpaid tolls on
23 toll projects, which will be determined by:

1 (1) the existing or estimated violation rate on toll
2 projects; and

3 (2) the estimated number of violations that the
4 department will collect.

5 (f) Operating agreements. The commission may authorize a
6 private entity under contract to operate a department toll
7 project to set toll rates for the use of the toll project and to
8 establish an administrative fee charged to owners of vehicles
9 that use the toll project without paying the proper toll, if:

10 (1) the private entity is required under the contract to
11 submit to the department for approval:

12 (A) the methodology for:

13 (i) the setting of tolls;

14 (ii) increasing the amount of the tolls; and

15 (iii) the setting of an administrative fee to be
16 imposed to recover the cost of collecting an unpaid toll; and

17 (B) any proposed change in an approved methodology for
18 the setting of a toll or an administrative fee;

19 (2) the private entity will operate the toll project
20 under a comprehensive development agreement or under a contract
21 resulting from a procurement under §27.83 of this chapter
22 (relating to Contracts to Operate Department Toll Projects) that
23 provides an operational concession to the private entity; and

1 (3) the commission approves the award of the contract to
2 the private entity.