

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter G. ADVANCED SERVICES.

§26.141. Distance Learning, Information Sharing Programs, and Interactive Multimedia Communications and Private Network Services to Certain Entities.

(a) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context indicates otherwise.

- (1) **Distance learning** -- Instruction, learning, and training that is transmitted from one site to one or more sites by telecommunications services that are used by an educational institution predominantly for such instruction, learning, or training, including video, data, voice, and electronic information.
- (2) **Educational institution** -- Accredited primary or secondary schools owned or operated by state and local government entities or by private entities; institutions of higher education as defined by the Education Code, §61.003(13); the Texas Education Agency, its successors and assigns; regional education service centers established and operated pursuant to the Education Code, Chapter 8; and the Texas Higher Education Coordinating Board, its successors and assigns.
- (3) **Health center** -- A federally qualified health center delivery site.
- (4) **Information sharing program** -- Instruction, learning, and training that is transmitted from one site to one or more sites by telecommunications services that are used by a library predominantly for such instruction, learning, or training, including video, data, voice, and electronic information.
- (5) **Interactive multimedia communications** -- Real-time, two-way, interactive voice, video, and data communications conducted over networks that link geographically dispersed locations. This definition includes interactive communications within or between buildings on the same campus or library site.
- (6) **Library** -- Public library or regional library system as defined by Government Code, §441.122, or a library operated by an institution of higher education or a school district.

(b) **Distance Learning Information Sharing Programs and Interactive Multimedia Communications.**

- (1) **Telecommunications services eligible for reduced rates.**
 - (A) Any tariffed service, if used predominantly for distance learning purposes by an educational institution or for information sharing program purposes by a library, is eligible for reduced rates, as set forth in this section.
 - (B) A service is used predominantly for distance learning purposes by an educational institution or for information sharing program purposes by a library when over 50% of the traffic carried, whether in video, data, voice, and/or electronic information, is identified for such use pursuant to the requirements of paragraph (3) of this subsection.
- (2) **Coordination with federal discounts**
 - (A) For any discount received pursuant to §26.216 of this title (relating to Educational Percentage Discount Rates (E-Rates)), an eligible school, library or consortia may apply such discount prior to any discount received under paragraph (3) or (4) of this subsection. Any subsequent discount received under this section shall apply to the discounted E-Rate and not the tariffed rate.
 - (B) Any discount received under §26.216 of this title will be applied subsequent to the rate obtained for services offered pursuant to paragraph (5) of this subsection. For purposes of determining the rate to which a discount pursuant to §26.216 of this title will apply, the rates offered under subsection (b)(5) of this section qualify as the lowest corresponding price.

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- (3) **Process by which an educational institution or library qualifies for reduced rates other than through a customer-specific contract.** To qualify for a discounted rate, an educational institution or library, as defined in subsection (a) of this section, must provide a sworn affidavit to the dominant certificated telecommunications utility account representative or, if no account representative is assigned, to the business office of the utility.
- (A) The affidavit shall:
- (i) specify the requested service(s) to be discounted;
 - (ii) quantify, if applicable, the requested service(s) to be discounted;
 - (iii) state that the discounted service(s) will be used predominantly for distance learning purposes or information sharing program purposes; and
 - (iv) specify the intended use(s) of the discounted service(s).
- (B) The affidavit shall be signed by the administrative head of the institution (*e.g.*, principal, president, chancellor) or library, or a designee given the task and authority to execute the affidavit on behalf of the educational institution or library requesting the discounted rates.
- (C) No other special form needs to be provided as part of the application process.
- (D) The educational institution or library shall provide an affidavit each time it orders services that will be used predominantly for distance learning purposes or information sharing program purposes.
- (4) **Interactive multimedia communications services.** Any dominant certificated telecommunications utility that provides interactive multimedia communications services may file a tariff to establish rates at levels necessary, using sound rate-making principles, to recover costs associated with providing such services to educational institutions or libraries. Those interactive multimedia communications services used predominantly for distance learning or information sharing program purposes, however, shall qualify for a 25% discount pursuant to paragraph (3) of this subsection.
- (5) **Customer-specific contracts.** When a service is provided to an educational institution or library pursuant to §26.211 of this title (relating to Rate-Setting Flexibility for Services Subject to Significant Competitive Challenges), the dominant certificated telecommunications utility shall price those components of the service used predominantly for distance learning or an information sharing program no greater than 110%, including installation, of the customer-specific long-run incremental cost.
- (6) **Cost determination.** Notwithstanding paragraph (3) and (4) of this subsection, once the commission develops cost determination rules for telecommunications services generally, a reduced rate approved under this section shall recover the service-specific long-run incremental costs. In the case of interactive multimedia communications services, however, the commission may allow a rate to be set lower than the long-run incremental cost of a specific service if such is determined to be in the public interest.
- (c) **Private Network Services for Certain Entities.** A PURA Chapter 58 or 59 electing company shall provide network services to an educational institution; a library, defined as a public library or regional library system as defined by Government Code §441.122, or a library operated by an institution of higher education or a school district; a nonprofit telemedicine center; a public or not-for-profit hospital; a legally constituted consortium or group of these entities listed herein; or a health center.
- (1) Priority shall be given to rural areas, areas designated as critically underserved either medically or educationally, and educational institutions with high percentages of economically disadvantaged students.
 - (2) An electing company shall provide private network services under a customer-specific contract.

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- (3) An electing company shall offer private network service contracts under PURA Chapter 58, Subchapter G at 110% of the long run incremental cost of providing the private network service, including installation.
- (4) An electing company shall file a flat monthly tariff rate for point-to-point intraLATA 1.544 megabits a second service. The tariff rate shall not be distance sensitive or higher than 110 % of the service's statewide average long run incremental cost, including installation.
- (5) On request of an entity listed in this subsection, an electing company shall provide point-to-point 45 megabits a second intraLATA services. The rate for the service shall not be higher than 110% of the service's long run incremental cost, including installation, and must be provided under a customer-specific contract except that any interoffice portion of the service must be recovered on a statewide average basis that is not distance sensitive.
- (6) An electing company shall provide to an entity listed in this subsection, broadband digital special access service to interexchange carriers, and the rate for the service shall not be higher than 110% of the service's long run incremental cost, including installation.
- (7) On request of an entity listed in this subsection, an electing company shall provide expanded interconnection (virtual collocation).
- (8) On request of an educational institution or library in an exchange of an electing company serving more than five million access lines in which toll-free access to the Internet is not available, an electing company shall make available a toll-free connection or toll-free dialing arrangement that the institution or library may use to obtain access to the Internet in an exchange in which toll-free access to the Internet is available at no charge until Internet access becomes available in the exchange of the requesting institution or library. The electing company is not required to arrange for Internet access or to pay Internet charges for the requesting institution or library.
- (9) The private network services provided under PURA Chapter 58, Subchapter G may be interconnected with other similar networks for distance learning, telemedicine, and information-sharing purposes.