PROJECT NO. 32162

RULEMAKING TO IMPLEMENT	**§**	**PUBLIC UTILITY COMMISSION**
CHANGES IN LIFELINE SERVICE	**§**	
PURSUANT TO S.B. 5 (PURA §55.015)	**§**	**OF TEXAS**
AND 47 C.F.R. PART 54 SUBPART E	**§**	

ORDER ADOPTING THE REPEAL OF §26.412, NEW §26.412, NEW §26.413 AND NEW §26.419 AS APPROVED AT THE MARCH 7, 2007 OPEN MEETING

The Public Utility Commission of Texas (commission) adopts the repeal of the current §26.412 relating to the Lifeline Service and Link Up Service Programs. The commission adopts new §26.412, relating to Lifeline Service Program and new §26.413 relating to the Link Up Service Program with changes to the proposed text as published in the October 13, 2006 issue of the *Texas Register* (31 TexReg 8456). In addition, the commission adopts new §26.419, relating to Telecommunication Resale Providers' Designation as Eligible Telecommunications Providers (ETPs) to Receive Texas Universal Service Funds (TUSF) for Lifeline Service with no changes to the proposed text as published in the October 13, 2006 issue of the *Texas Register* (31 TexReg 8456). These new sections are adopted under Project Number 32162.

The repeal of the current §26.412 is due to the numerous changes to this section that were brought about by changes to 47 C.F.R. Part 54 Subpart E and, more significantly, by Senate Bill 5, 79th Legislature, Second Called Session (S.B. 5), which amended Public Utility Regulatory Act (PURA) §55.015. In addition, this repeal of §26.412 was made to separate the Lifeline and Link Up rules because these are two distinct programs. Lifeline is a state-mandated program that is administered by the state, whereas Link Up is a federal program administered by the Federal Communications Commission.

New §26.412 implements the changes stemming from S.B. 5 regarding certificated providers. Prior to S.B. 5, PURA §55.015 required only ETPs and eligible telecommunication carriers (ETCs) (collectively referred to as participating telecommunication carriers) to provide Lifeline Service. As amended by S.B. 5, PURA §55.015 requires all certificated providers of local exchange telephone service to provide Lifeline Service, which is a larger universe of providers than ETCs and ETPs. Previously only ETCs and ETPs were required to provide Lifeline Service and were eligible to receive support for such services from the TUSF. All certificated providers that are not Total Service Resale (TSR) providers can apply to become an ETC or ETP. A group of certificated providers that provide local exchange telecommunications service solely through total service resale are called TSR providers. TSR providers were not previously required to provide Lifeline Service, but now they must under the new PURA §55.015. Since TSR providers cannot qualify as ETCs under federal law, and therefore cannot become ETPs, the commission developed §26.419 relating to Telecommunication Resale Providers Designation as Eligible Telecommunications Providers to receive Texas Universal Service Funds (TUSF) for Lifeline Service, whereby they could receive support for the Lifeline Service they are now required to provide. New §26.412 also clarifies the responsibilities of Lifeline providers.

PURA §55.015(d-1) mandated that Lifeline Service be offered to a customer whose income is not more than 150% of the applicable income level established by the federal poverty guidelines or in whose household resides a person who receives or has a child who receives any of the following benefits: 1) Medicaid; 2) food stamps; 3) Supplemental Security Income; 4) federal public housing assistance (Section 8); 5) Low Income Home Energy Assistance Program

(LIHEAP) assistance; or 6) health benefits coverage under the state child health plan under Chapter 62, Health and Safety Code. With the addition of “in whose household resides,” PURA §55.015(d-1) changed the Lifeline eligibility guidelines from individual-based guidelines to household based guidelines. Therefore, the commission has proposed changing the rule to incorporate these new guidelines.

New §26.419 will allow the commission to designate certificated providers of local exchange telephone service that provide this service strictly through the resale of an incumbent local exchange carrier’s (ILEC) services as ETPs solely in order to allow them to receive support from the TUSF under §26.412, relating to the Lifeline Service Program.

New §26.413 addresses the guidelines for the FCC-administered Link Up Service Program. Unlike the PURA requirement that all certificated providers must provide Lifeline Service, only ETPs and ETCs are required to provide Link Up Service. Though the Link Up program is administered by the FCC, state commissions have the obligation to approve all ETC and ETP designations.

The commission received comments on the proposed new sections and repeal of the current section from NTS Communications (NTS), Stratos Telecom, Inc. (Stratos), Verizon Southwest (Verizon), AT&T Texas and AT&T Communications of Texas, L.P. (collectively AT&T), Texas Legal Services Center (TLSC) and the Office of Public Utility Counsel (OPC) (collectively TLSC/OPC), and Central Telephone Company of Texas d/b/a Embarq and United Telephone Company of Texas d/b/a Embarq (collectively Embarq). Commission notes that Embarq has indicated in its reply comments that it supports the totality of AT&T's initial comments, which Embarq states helps clarify the rules and add administrative efficiency to the Lifeline process.

Lifeline Service Program - §26.412(e)

The Lifeline Service Program, §26.412(e), outlines the services that a Lifeline provider must provide to qualifying low-income customers.

§26.412(e)(3)(B)

Section 26.412(e)(3)(B) specifically addresses the eligibility periods for automatically enrolled customers. The commission received comments from AT&T regarding this subsection of the new rule. AT&T opined that §26.412(e)(3)(B) should be revised to add the phrase "however, retroactive discounts will not be applied" to the end of the last sentence of §26.412(e)(3)(B) in order to clarify how the Lifeline discount applies to customers who renew their benefits upon the expiration of their automatic enrollment.

Commission response

The commission finds that there may be situations under §26.412(e)(3)(B) in which a customer may be entitled to a retroactive discount. An example of such a situation would be if the telecommunications provider, the Low-Income Discount Administrator (LIDA), or Texas Health and Human Services Commission (HHSC) made an error, which caused the Lifeline customer to be deleted or denied Lifeline benefits. In such a case, a retroactive discount would need to be issued. The commission therefore declines to revise this subsection as proposed by AT&T.

§26.412(e)(3)(C)

Section 26.412(e)(3)(C) addresses the eligibility periods for self-enrolled customers. AT&T and TLSC/OPC asserted that the eligibility period set forth in §26.412(e)(3)(C) should be changed from seven months to twelve months. AT&T claimed that this slightly longer eligibility period would be easier for customers to remember, as they will be required to re-certify in the same month each year. Additionally, a 12-month eligibility period will benefit the LIDA and the Lifeline Program in general because costs would be reduced due to the reduction in the number of forms that are processed each year.

Commission response

The commission finds that the current eligibility period set forth in §26.412(e)(3)(C) should not be changed at this time. When reviewing this eligibility period, the commission took into consideration not only the telephone low-income program but also the electric low-income program, which has the same eligibility period. The commission notes that this rulemaking applies only to telephone low income, and as such does not affect the electric low-income program eligibility periods. Contrary to the position proffered by AT&T and TLSC/OPC, the commission concludes that the economic burden and confusion to customers and the LIDA of changing only the telephone low-income eligibility period would be high. Therefore, the commission declines to extend the eligibility period as suggested by AT&T and TLSC/OPC.

§26.412(e)(7)

Section 26.412(e)(7) requires Lifeline providers to offer Lifeline discounts on bundled packages. Verizon argued that §26.412(e)(7), should be deleted. Verizon stated that S.B. 5 does not extend

Lifeline service to bundled packages; instead, it limits the services that providers are required to offer Lifeline customers to vertical services or custom calling features. Further, Verizon claimed that if the Legislature intended carriers to include bundled packages in this list of services, it would have said so. Verizon also disagreed with what it stated was staff's assertion that not allowing Lifeline customers to purchase packages is somehow "discriminatory." Verizon claimed three reasons for disagreeing with staff on this point: 1) Lifeline Service, by definition, does not include packages; 2) any customer who is eligible for Lifeline Service can choose to forego such service and purchase packages just like any other customer; 3) staff's "discrimination" argument fails to recognize that Lifeline Service is a special service intended to assist those consumers who cannot otherwise afford basic telephone service; a company does not unreasonably discriminate by refusing to extend this narrow principle to other services.

TLSC/OPC disagreed with Verizon on this issue. TLSC/OPC disagreed with Verizon's interpretation of PURA §55.015(d-2) (that carriers are not required to offer a package of services to applicants for Lifeline Services because the statute does not reference the packaging of services). TLSC/OPC stated that Verizon's interpretation is contrary to the plain language of PURA §55.015(d-2). TLSC/OPC stated that this statute mandates that if a carrier provides a pricing option based on a bundling or packaging of vertical and/or custom calling services then that price must be available to applicants for Lifeline Service. TLSC/OPC further asserted that PURA §51.002(7) supports its interpretation by referring to the packaging of services as "pricing flexibility."

Commission response

The commission finds that Lifeline discounts should be available on bundled packages for Lifeline customers, with the Lifeline discount applied to the basic service cost of the package. The argument presented by Verizon as to why §26.412(e)(7) should not be included in this rule is unconvincing. Verizon cited PURA §51.002(7)(B) and §58.004. PURA §51.002(7)(B) defines the term "pricing flexibility," but nowhere within this definition does PURA allow a provider to exclude a particular class of customers from obtaining services that are offered under "pricing flexibility." Moreover, regardless of the price at which a particular service is offered or what services might be bundled together, the support that Verizon would receive remains the same. Regarding PURA §58.004, this section speaks to providers that serve more than five million access lines in this state; a criterion which Verizon does not meet.

Obligations of the customer and the Lifeline provider - §26.412(g)

Section 26.412(g) describes the obligations of the customer and Lifeline providers. TLSC/OPC proposed multiple modifications of §26.412(g), which included: 1) modifications to customer bills and/or bill inserts; 2) service deposit notifications; 3) pricing comparison notifications; 4) customer monthly savings notification; and 5) mandating that telephone providers begin reduced billing for qualifying low-income customers subscribing to services within 15 days, rather than 30 days, of receipt of the monthly update provided by the LIDA. Additionally, TLSC/OPC proposed language that the LIDA 1) should notify applicants deemed ineligible for Lifeline Service in writing within ten days of receipt of the application for the basis of its decision and provide the applicant with information regarding the appeal procedures; and 2) must send re-enrollment forms to self-enrolling customers 30 days prior to expiration of the enrollment period, with postage-paid return envelopes for customers to respond. Customers who do not return the initial request form within 20 days must be sent a reminder letter or postcard within the next five days.

Commission response

The commission finds that the proposed billing modifications and notifications proposed by TLSC/OPC are beyond the scope of this project, and therefore declines implementation of such modifications and notifications at this time. Furthermore, the commission finds the proposal by TLSC/OPC that telecommunication providers begin reduced billing for qualifying low-income customers within 15 days, rather than 30 days, of receipt of the LIDA update to be unrealistic. Many companies have multiple billing cycles and, depending on when a particular billing cycle occurs, more than 15 days may have lapsed before the bill cycle run.

In considering the proposal proffered by the TLSC/OPC regarding the LIDA sending out multiple renewal notifications and postage-paid return envelopes, the commission finds that this would cause additional cost to be incurred by the TUSF and subsequently by all telecommunication customers. Therefore, the commission declines to adopt the proposal that multiple renewal notices be sent out along with postage-paid return envelopes.

§26.412(g)(2)(A)(ii)

Section 26.412(g)(2)(A)(ii) addresses charges for changes to telephone service by Lifeline customers. Service order charges associated with changes in service arrangements that are made in order to qualify for Lifeline Service and the time frame in which reduced billing shall occur is addressed in §26.412(g)(2)(A)(ii). AT&T stated that the phrases "or initiates new service" and "or at the time new service is established" should be deleted from the last sentence of §26.412(g)(2)(A)(ii). AT&T claimed that customers must already have service to qualify for Lifeline; therefore, there would not be any new connect orders to which the Lifeline discounts would apply.

Commission response

The commission finds that AT&T is correct in its statement that a customer must initiate service prior to applying for Lifeline Service. Therefore, the references to "initiate new service" and "or at the time new service is established" have been deleted from §26.412(g)(2)(A)(ii).

§26.412(g)(2)(C)(ii)

Section 26.412(g)(2)(C)(ii) addresses the monthly reporting requirements for Lifeline providers. Stratos asserted that, while proposed §26.412(g)(2)(C)(ii) requires carriers to provide a monthly report to the TUSF administrator of the total number of qualified low-income customers to whom Lifeline Service was provided for the month, many CLECs, such as itself, have few, if any, customers who would qualify for Lifeline. Stratos asserted that such regulatory reporting requirements pose an additional needless burden on CLECs like Stratos, who would be required to file monthly reports with a notation of zero customers. Thus, Stratos asked for clarification that the monthly reporting applies only at such time as a CLEC has Lifeline customers.

TLSC/OPC opined that in order to ensure that Lifeline providers are in compliance with §26.412, the commission should require that the reports under §26.412(g)(2)(C)(ii) be provided to the commission as well as to the TUSF administrator.

Commission response

The commission notes that in order to address Stratos's concern regarding the reporting of Lifeline customers, the commission should clarify that there are two distinct steps of the Lifeline process. The first step is determining which of the providers' customers, if any, are eligible for Lifeline Service. This step is accomplished when the certificated provider interfaces with the LIDA each month so that a data base match can be completed. Regardless of whether a provider chooses to seek reimbursement for the provisioning of Lifeline Service by obtaining an ETP or Resale ETP designation, ***all certificated providers of basic local exchange telephone service must interface with LIDA each month*** so that the database match can be completed to determine if the provider has any Lifeline customers. The second step involves the receipt of support from the TUSF for the Lifeline Services being provided. All telecommunications providers that have access to the customer base are required to file a TUSF assessment form and pay into the fund. If a certificated provider has chosen to become an ETP or Resale ETP and it has Lifeline customers, then it would file a different report than a company that does not receive any TUSF support. In conclusion, there are no reports that certificated providers could avoid filing if they have no Lifeline customers, it is just a matter of which TUSF assessment form they must file.

Pursuant to the mandate of the 79th Legislature, the commission recently completed Project Number 32460, relating to *Project to Review and Evaluate Telecommunications Carriers' Reporting Requirements and Provide Recommendations Pursuant to SB 408 Section 13, 79th Legislative Session.* The purpose of this project was to determine which reports were unnecessary and remove them from commission reporting requirements. In light of the Texas Legislature's apparent desire to lessen the burden on telecommunication providers by removing unnecessary reports, the commission finds the additional reporting requirements proposed by TLSC/OPC unreasonable and declines to incorporate them into the rule as adopted.

§26.412(g)(2)(D)

Section 26.412(g)(2)(D) lists the notices of Lifeline Service that Lifeline providers must provide. TLSC/OPC opined that in order to verify compliance of the Lifeline provider with §26.412 requirements, the commission should require a Lifeline provider to publicly file, by September 30th of each year, information pertaining to its compliance with the notification requirement. Such a filing would include the materials the Lifeline provider uses to publicize the availability of its services, the goals of the outreach program and its expected penetration levels.

AT&T responded to the TLSC/OPC proposed modifications of §26.412(g)(2)(D)(iii) that such detailed requirements go well beyond the statutory mandate that customers be advised of the "existence of" the lifeline program. Moreover, AT&T stated that including the price of basic Lifeline Service is problematic because a provider may have different rate groups, thus different rates, in various exchanges.

As to TLSC/OPC's annual notification proposal under §26.412(e)(7), AT&T stated that such a proposal also exceeds statutory mandates and is problematic for the same reasons stated above. Regarding TLSC/OPC proposed changes to §26.412(g)(2)(A) to include the rate discount and waived fees, AT&T responded that a competitive market should allow providers maximum flexibility to determine what information is displayed and how it is displayed on customer's bill's. According to AT&T, the primary concern should be to insure that such information is accurate and not misleading.

As to TLSC/OPC's recommendations regarding reporting requirements, AT&T finds that some are redundant, and others far exceed the legislature's mandate, constitute micro-management and are unacceptably vague.

Commission response

The commission finds that the proposed billing modifications and notifications proposed by TLSC/OPC are beyond the scope of this project and therefore declines implementation of such modifications and notifications at this time.

Link Up Service Program - §26.413

Section 26.413 defines the Link Up Service program, which is certified by the FCC pursuant to 47 C.F.R. §54.411. The Link Up Service program provides qualifying low-income customers with a reduction in the participating telecommunications carrier's customary charge for commencing service for a primary single line connection at the customer's principal place of residence and also provides a deferred schedule for payment of the charges assessed for commencing service, for which the customer does not pay interest. Section 26.413 applies to all ETCs and ETPs (collectively referred to in this section as participating telecommunications carrier). ETC designations are approved by the commission. TLSC/OPC proposed multiple notification modifications to §26.413, including: 1) informing the customer orally and in writing that interest shall be waived for connection charges of up to $200 that are deferred for a period not to exceed one year; and 2) modifying the rule to require the carrier to publicize, at a minimum, eligibility criteria, the telephone number to request an application, and the price of the service after application of the Link Up discounts. TLSC/OPC also opined that carriers should be required to post this same information on their home Web page, place links to service plans with the best prices, and place links to commission rules and to Lifeline Service basic rates.

AT&T stated that there is no statutory support for mandating the notification requirements proposed by TLSC/OPC. It also believed that the detailed requirements presented by TLSC/OPC go well beyond the mandate to publicize the "availability of Link-up Service." As to TLSC/OPC's proposal to include rates, AT&T opined that the proposal is problematic in that installation charges may differ by exchange or the complexity of the installation. Furthermore, AT&T stated that a TLSC/OPC's proposed requirement to post certain minimum information on a Web page with links to service plans with the best prices goes well beyond statutory mandates and would constitute micro-management of the provider's business.

Commission response

The commission finds that the TLSC/OPC proposed notifications and modifications go beyond what the FCC requires. The FCC requires that participating telecommunications carriers adhere to the following recordkeeping requirements: 1) maintain records to document compliance with all FCC and state requirements governing this program for the three full preceding calendar years and provide documentation to the commission or administrator upon request; 2) an ETC that provides Lifeline discounted wholesale services to a reseller must obtain a certification from that reseller that it is complying with all FCC requirements governing this program; and 3) non-eligible-telecommunications carrier resellers that purchase discounted wholesale Lifeline Services must maintain records to document compliance with all FCC requirements governing this program for the three full preceding calendar years, and provide that documentation to the FCC or Administrator upon request. These proposals offered by TLSC/OPC exceed the FCC's requirements and the commission therefore declines to adopt them.

§26.413(f)

Section 26.413(f) lists the obligations of the participating telecommunications carrier. AT&T proposed that §26.413(f) be modified to include the statement "the customer is eligible for the Link Up credit only if the participating telecommunications carrier receives the notification from LIDA within 90 days of the date of the customer's initial inquiry for service." AT&T stated that since this statement was currently in the LIDA Guide, then it should be included in this rule.

Commission response

The commission declines to include this proposed AT&T statement. The commission notes that Link Up is a federal program and not a state program and, as such, is governed by rules adopted by the FCC. These rules may be found in 47 CFR §54.411 - §54.417. Moreover, the commission notes that the FCC does not require that a customer be certified as a qualified recipient of Lifeline Services within 90 days in order to be eligible for Link Up Service.

Telecommunication Resale Providers Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF) for Lifeline Service - §26.419

Section 26.419 provides the requirements for the commission to designate certificated providers of local exchange telephone service that provide this service solely through the resale of an ILEC's services. NTS claimed that carriers that provide Lifeline Service should be able to obtain reimbursement from the state or federal universal service funds (FUSF) for the Lifeline support amounts credited on customers' bills. Specifically, NTS urged that the commission specify that a carrier may obtain a limited ETC/ETP designation in order to receive reimbursement for Lifeline in areas served by rural ILECs without having to qualify to serve the entire rural ILEC study area or, alternatively, that the commission set forth a procedure to grant a waiver of the requirement to provide Lifeline Service if the customer is in an area served by a rural ILEC but the CLEC does not serve the entire area of the rural ILEC. NTS asserted that it would be anticompetitive to offer this subsidy to ILECs and have it unavailable to CLECs unless they expand their service area beyond what is reasonable for that carrier's business plan.

With respect to NTS's scenario of a carrier serving only a portion of a rural ILEC's study area, Embarq saw no obvious conflict between the new requirements of PURA §51.015 and the established state and federal requirements for ETC/ETP designation. Embarq stated its belief that the Legislature was aware of existing ETC/ETP requirements when §51.015 was amended. Embarq also expressed belief that, for CLECs who would prefer not to seek ETC certification throughout the entirety of a rural ILEC's study area, a process exists under 47 C.F.R. §54.207 that may be appropriate for a limited "Lifeline only" ETC designation. Embarq found it unclear whether, under the FCC's existing rules for ETC designation, the commission could establish a limited ETC/ETP designation that would be limited to reimbursement of Lifeline discounts, as proposed by NTS. It was also unclear to Embarq what NTS believes would be the requirement for such a limited ETC designation. NTS's other possible alternative was for the commission to develop a process to allow CLECs in rural ILEC areas to request a waiver of the requirement to provide Lifeline in rural ILEC areas. Because the requirement to provide Lifeline is a statutory requirement in PURA, Embarq does not believe the commission can grant such a waiver.

Commission response

The commission notes that PURA §55.015 requires all certificated providers of local exchange telephone service to provide Lifeline Service. In order for a certificated provider to receive TUSF support for Lifeline Service, it must be designated as an ETP. An ETP designation comes with certain requirements such as the one that mandates that a provider must provide service through the entirety of a rural ILEC's study area. This requirement can be achieved either through the provider utilizing its own facilities or resale of the rural ILEC's facilities. The commission finds that NTS can meet any and all ETP obligations by use of its own facilities or through the resale of a rural ILEC's facilities. The commission notes that ILECs have the duty pursuant to PURA Chapter 60, Subchapter C, to make the loop network element available to NTS or similar reseller.

All comments, including any not specifically referenced herein, were fully considered by the commission. The commission notes that it made one substantive change to the proposed rule that was published in the *Texas Register* (31 TexReg 8456). Section 26.412(g)(2)(A)(ii) was amended by deleting references to "initiate new service" and "or at the time new service is established." In adopting these sections, the commission makes other minor modifications for the purpose of clarifying its intent. Two such changes are: 1) §26.412(f)(1)(E) which would now include in the Lifeline Discount Amount section, the additional Lifeline support that would be provided to qualifying Lifeline customers that are an eligible resident of Tribal lands, as defined in 47 C.F.R. §54.400(e); and 2) §26.412(f)(2)(B) would delete the federal support listed for an ETP that is derived from being designated as an ETC and list only that support which is received from the TUSF.

This repeal and these new sections are adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction. PURA Chapter 55, Subchapter A, §55.015 establishes the provisions and requirements for certificated providers to provide access to Lifeline Service to customers. PURA Chapter 56, Subchapter A, §56.021(5) establishes a Universal Service Fund to reimburse those telecommunications carriers that provide Lifeline Service. PURA §14.001 gives it the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction. This commission's jurisdiction is derived from PURA §14.001. PURA §14.002 requires the commission to adopt and enforce rules reasonably necessary in the exercise of its powers and jurisdiction. The authority to provide Lifeline Service may be found in 47 U.S.C. §§54.400 *et. seq*. The designation of customers to receive Link Up is also found in 47 U.S.C. §§54.400 *et. seq*. The sections regarding Lifeline Service and Link Up Service comport with federal law.

Cross Reference to Statutes: PURA §14.001, §14.002, §55.015 and Chapter 56.

§26.412. Lifeline Service and Link Up Service Programs. (REPEALED)

§26.412. Lifeline Service Program.

(a) **Scope and purpose.** Through this section, the commission seeks to identify and make available Lifeline Service to all qualifying customers and households, establish a procedure for Lifeline Automatic Enrollment and Lifeline Self-Enrollment, and define the responsibilities of all providers of local exchange telephone service that provide Lifeline Service, qualified customers, the Texas Health and Human Services Commission (HHSC), and the Low-Income Discount Administrator (LIDA) Program.

(b) **Applicability.** This section applies to the following providers of local exchange telephone service collectively referred to in this section as Lifeline providers:

(1) ETC – A carrier designated as such by a state commission pursuant to 47 C.F.R. §54.201 and §26.418 of this title (relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds).

(2) ETP – A provider designated as an ETP as defined by §26.417 of this title (relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF)).

(3) Resale ETP – A certificated provider that provides local exchange telephone service solely through the resale of an incumbent local exchange carrier's service and that has been designated as an ETP as defined by §26.419 of this title (relating to Telecommunication Resale Providers Designation as Eligible

Telecommunications Providers to Receive Texas Universal Service Funds (TUSF) for Lifeline Service).

(4) Non-ETP/ETC Certificated Provider – Any certificated provider of local exchange telephone service that chooses not to become an ETP or an ETC as defined by §§26.417, 26.418, or 26.419 of this title.

(c) **Definitions.**

(1) Qualifying low-income customer – A customer who meets the qualifications for Lifeline Service, as specified in subsection (d) of this section.

(2) Toll blocking – A service provided by Lifeline providers that let customers elect not to allow the completion of outgoing toll calls from their telephone.

(3) Toll control – A service provided by Lifeline providers that allow customers to specify a certain amount of toll usage that may be incurred on their telephone account per month or per billing cycle.

(4) Toll limitation – Denotes either toll blocking or toll control for Lifeline providers that are incapable of providing both services. For Lifeline providers that are capable of providing both services, "toll limitation" denotes both toll blocking as defined in paragraph (2) of this subsection and toll control as defined in paragraph (3) of this subsection.

(5) Eligible resident of Tribal lands – A "qualifying low-income customer", as defined in paragraph (1) of this subsection, living on or near a reservation. Pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), a

"reservation" is defined as any federally recognized Indian tribe's reservation, pueblo, or colony.

(6) Income – As defined in 47 C.F.R. §54.400(f) includes all income actually received by all members of the household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

(d) **Customer Eligibility Requirements.** A customer is eligible for Lifeline Service if they meet one of the criterion of paragraph (1), (2), or (3) of this subsection as determined by the LIDA. Nothing in this section shall prohibit a customer otherwise eligible to receive Lifeline Service from obtaining and using telecommunications equipment or services designed to aid such customer in utilizing qualifying telecommunications services.

(1) The customer's household income is at or below 150% of the federal poverty guidelines as published by the United States Department of Health and Human Services and updated annually;

(2) A customer who receives benefits from or has a child that resides in the customer's household who receives benefits from any of the following programs qualifies for Lifeline Services: Medicaid, Food Stamps, Supplemental Security Income (SSI), Federal Public Housing Assistance, Low Income Home Energy

Assistance Program (LIHEAP), or health benefits coverage under the State Child Health Plan (CHIP) under Chapter 62, Health and Safety Code; or

(3) A customer is an eligible resident of tribal lands as defined in subsection (c)(5) of this section.

(e) **Lifeline Service Program.** Each Lifeline provider shall provide Lifeline Service as provided by this section. Lifeline Service is a retail local exchange telephone service offering available to qualifying low-income customers. Lifeline Service shall be provided according to the following requirements:

(1) **Designated Lifeline services.** Lifeline providers shall offer the services or functionalities enumerated in 47 C.F.R. §54.101(a)(1)-(9) (relating to Supported Services for Rural, Insular and High Cost Areas).

(2) **Toll limitation.** Lifeline providers shall offer toll limitation to all qualifying low-income customers at the time the customer subscribes to Lifeline Service. If the customer elects to receive toll limitation that service shall become part of the customers Lifeline Service and the customers monthly bill will not be increased by otherwise applicable toll limitation charges.

(3) **Disconnection of service.**

(A) Disconnection prohibition. Lifeline providers may not disconnect Lifeline Service for non-payment of toll charges.

(B) Discontinuance of Lifeline Discounts for customers automatically enrolled. The eligibility period for automatically enrolled customers is the length of their enrollment in HHSC benefits plus a period of 60 days for renewal. Automatically enrolled customers will have an opportunity to renew their HHSC benefits or self enroll with LIDA upon the expiration of their automatic enrollment.

(C) Discontinuance of Lifeline discounts for customers who have self-enrolled. Individuals not receiving benefits through HHSC programs, but who have met Lifeline income qualifications in subsection (d) of this section, are eligible to receive the Lifeline discount for seven months, which includes a period of 60 days during which the customer may renew their eligibility with LIDA for an additional seven months.

(4) **Number Portability.** Consistent with 47 C.F.R. §52.33(a)(1)(C), Lifeline providers may not charge Lifeline customers a monthly number-portability charge.

(5) **Service deposit prohibition.** If the qualifying low-income customer voluntarily elects toll limitation from the Lifeline provider, the Lifeline provider may not collect a service deposit pursuant to §26.24 of this title (relating to Credit Requirements and Deposits) in order to initiate Lifeline Service.

(6) **Ancillary services.** A Lifeline provider shall provide customers who apply for or receive Lifeline Service access to available vertical services or custom calling features, including caller ID, call waiting, and call blocking, at the same price as other consumers. Lifeline discounts shall only apply to that portion of the bill that is for basic network services.

(7) **Bundled packages.** A Lifeline provider shall provide customers who apply to receive Lifeline Service access to bundled packages at the same price as other

consumers less the Lifeline discount that shall only apply to that portion of the bundled package bill that is for basic network service.

(f) **Lifeline support and recovery of support amounts.**

(1) **Lifeline discount amounts.** All Lifeline providers shall provide the following Lifeline discounts to all eligible Lifeline customers:

(A) Waiver of the monthly subscriber line charge (SLC) - Lifeline providers shall grant a waiver of the monthly SLC at the rate tariffed by the incumbent local exchange carrier serving the area of the qualifying low-income customer. If the ETP does not charge the SLC, it shall reduce its lowest tariffed residential rate for supported services by the amount of the SLC tariffed by the ILEC serving the area of the qualifying low-income customer.

(B) Federally approved $1.75 reduction - A Lifeline provider shall give a qualifying low-income customer a federally approved reduction of $1.75 in the monthly amount of intrastate charges paid pursuant to 47 C.F.R. §54.403 (relating to Lifeline Support Amount).

(C) Additional state reduction with federal matching - A Lifeline provider shall give a qualifying low-income customer an additional state-approved reduction of up to a maximum of $3.50 in the monthly amount of intrastate charges.

(D) Federal match of state reduction – A Lifeline provider shall provide a further federally approved reduction equal to one-half the amount of the state-mandated reduction in subparagraph (C) of this paragraph up to a maximum of $1.75.

(E) Additional federal Lifeline support of up to $25 per month for Lifeline service provided to an eligible resident of Tribal lands, as defined in 47 C.F.R. §54.400(e).

(2) **Lifeline support amounts**. The following Lifeline providers shall receive support amounts for the Lifeline discounts outlined in paragraph (1) of this subsection:

(A) ETC – Pursuant to 47 C.F.R. §54.403(a), the federal Lifeline support an ETC shall receive is:

(i) The tariffed rate in effect for the primary residential SLC of the incumbent local exchange carrier serving the area in which the qualifying low-income consumer receives service.

(ii) Additional federal Lifeline support in the amount of $1.75 per month.

(iii) Additional federal Lifeline support in an amount equal to one-half the amount of any state-mandated Lifeline support or Lifeline support otherwise provided by the carrier, up to a maximum of $1.75 per month.

(iv) Additional federal Lifeline support of up to $25 per month for Lifeline service provided to an eligible resident of Tribal lands, as defined in 47 C.F.R. §54.400(e).

(B) ETP – An ETP shall receive state support of up to a maximum of $3.50. If an ETP has been designated as an ETC, then the certificated provider would also receive support amounts outlined in paragraph (A) of this subsection.

(C) Resale ETP – A Resale ETP shall receive Lifeline Service support equal to the following state and federal amounts as long as the Lifeline Service was not purchased as a wholesale offering from the ILEC. Any Lifeline Service purchased as a wholesale offering from the ILEC includes the Lifeline Discount and is therefore not eligible to receive an additional discount. The Texas Universal Service Fund (TUSF), regardless of whether the Lifeline Service discount is state or federally mandated, will provide all Lifeline Service support.

(i) The tariffed rate in effect for the primary residential SLC of the incumbent local exchange carrier serving the area in which the qualifying low-income consumer receives service. If the Resale ETP does not charge the SLC, it shall reduce its lowest tariffed residential rate for supported services by the amount of the SLC tariffed by the ILEC serving the area of the qualifying low-income customer;

(ii) Additional federally mandated Lifeline support in the amount of $1.75 per month;

(iii) Additional federally mandated Lifeline support in an amount equal to one-half the amount of any state-mandated Lifeline support or

Lifeline support otherwise provided by the carrier, up to a maximum of $1.75 per month;

(iv) Additional federally mandated Lifeline support of up to $25 per month for Lifeline service provided to an eligible resident of Tribal lands, as defined in 47 C.F.R. §54.400(e); and

(v) A Resale ETP shall receive state-mandated support of up to a maximum of $3.50.

(D) Non-ETP/ETC - A Non-ETP/ETC is not eligible to receive any state or federally mandated Lifeline support.

(g) **Obligations of the customer and the Lifeline provider.**

(1) **Obligations of the customer.**

(A) Customers who meet the low-income requirement for qualification but do not receive benefits under the programs listed in subsection (d) of this section may provide the LIDA with self-enrollment for Lifeline benefits.

(B) Customers receiving benefits under the programs listed in subsection (d) of this section and who have telephone service will be subject to the Lifeline automatic enrollment procedures as provided by the LIDA unless they provide the LIDA with a request to be excluded from Lifeline Service.

(C) Customers receiving benefits under the programs listed in subsection (d) of this section and who do not have telephone service must initiate a request for service from a participating telecommunications carrier providing local service in their area.

(D) Opportunity for contest.

(i) A customer who believes that their self-enrollment application has been erroneously denied may request in writing that LIDA review the application, and the customer may submit additional information as proof of eligibility.

(ii) A customer who is dissatisfied with LIDA’s action following a request for review under clause (i) of this subparagraph may request in writing that an informal hearing be conducted by the commission staff.

(iii) A customer dissatisfied with the determination after an informal hearing under clause (ii) of this subparagraph may file a formal complaint pursuant to §22.242(e) of this title (relating to Complaints).

(2) **Obligations of Lifeline providers.**

(A) A Lifeline provider shall only provide Lifeline Service to all eligible customers identified by the LIDA within its service area in accordance with this section.

(i) A Lifeline provider shall identify, on the initial database provided by the LIDA, those customers to whom it is providing telephone service and shall begin reduced billing for those qualifying low-income customers.

(ii) The eligible customer shall not be charged for changes in telephone service arrangements that are made in order to qualify for Lifeline Service, or for service order charges associated with transferring the account into Lifeline Service. If the eligible customer changes the telephone service, the Lifeline provider shall begin reduced billing at the time the change of service becomes effective.

(iii) Upon receipt of the monthly update provided by the LIDA, a Lifeline provider shall begin reduced billing for those qualifying low-income customers subscribing to services within 30 days.

(iv) The LIDA shall provide a self-enrollment form by direct mail at the customer's request. The LIDA shall maintain customers' self-enrollment forms and provide a database of self-enrolling customers to all Lifeline providers.

(B) **Tariff Requirement.** Each Lifeline provider shall file a tariff to implement Lifeline Service, or revise its existing tariff for compliance with this section and with applicable law.

(C) **Reporting requirements.** Lifeline providers providing Lifeline Service pursuant to this section shall report information as required by the commission or the TUSF administrator, including but not limited to the following information:

(i) **Initial reporting requirements.** Lifeline providers shall provide the commission and the TUSF administrator with information demonstrating that its Lifeline Service plan meets the requirements of this section.

(ii) **Monthly reporting requirements.** Lifeline providers shall report monthly to the TUSF administrator the total number of qualified low-income customers to whom Lifeline Service was provided for the month by the Lifeline providers. Resale ETPs shall not report any customers whose Lifeline Services were purchased from an ILEC as a wholesale Lifeline Service offering. The ILEC from whom these lines were purchased will include those customers in its total number of qualified low-income customers reported to the

TUSF administrator. Non-ETP Lifeline providers are excluded from this reporting requirement since they have elected not to receive any type of Lifeline support.

(iii) **Other reporting requirements.** Lifeline providers shall report any other information required by the commission or the TUSF administrator, including any information necessary to assess contributions to and disbursements from the TUSF. Non-ETP Lifeline providers may be required to report certain information to the commission but will not be required to submit information to the TUSF administrator since they have elected not to receive any type of Lifeline support.

(iv) ETPs shall file the following information with the administrator of the Federal Lifeline Program. Non-ETP Lifeline providers are exempt from this requirement.

(I) information demonstrating that the ETPs Lifeline Service plan meets the criteria set forth in 47 C.F.R. Subpart E (relating to Universal Service Support for Low-Income Consumers);

(II) the number of qualifying low-income customers served by the ETP;

(III) the amount of state assistance; and

(IV) other information required by the administrator of the Federal Lifeline Program.

(D) **Notice Requirement.** A Lifeline provider shall provide the following notices of Lifeline Service:

(i) Notice of Lifeline Service in any directory it distributes to its customers advising customers of the availability of Lifeline Service. In any instance where the Lifeline provider provides bilingual (English and Spanish) information in its directory, the Lifeline provider must also provide its notice regarding Lifeline Service in a bilingual format.

(ii) An annual bill message-advising customers of the availability of Lifeline Service. In any instance where the Lifeline provider provides bilingual (English and Spanish) information in its annual bill messages, the Lifeline provider must also provide its notice regarding Lifeline Service in a bilingual format; and

(iii) Inform all customers both orally and in writing of the existence of the Lifeline Service program when they request or initiate service or change service locations or providers. In any instance where the Lifeline provider provides bilingual (English and Spanish) information in its directory, the Lifeline provider must also provide its notice regarding Lifeline Service in a bilingual format.

(iv) Shall publicize the availability of Lifeline Service in a manner reasonably designed to reach those likely to qualify for the service.

(E) **Confidentiality agreements.** Each Lifeline provider must execute a confidentiality agreement with the LIDA prior to receiving the LIDAs eligibility database. The agreement will specify that client information is released by the LIDA to the Lifeline provider for the sole purpose of providing Lifeline Service to eligible customers and that the information cannot be released by the Lifeline provider or be used by the Lifeline provider for any other purpose.

§26.413. Link Up Service Program.

(a) **Scope and purpose.** Through this section, the commission seeks to extend Link Up Service to all qualifying customers and define the responsibilities of participating telecommunications carriers and qualified customers.

(b) **Applicability.** This section applies to designated eligible telecommunications carriers (ETCs) as defined by §26.418 of this title (relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds) and designated eligible telecommunications providers (ETPs) as defined by §26.417 of this title (relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF)), collectively referred to in this section as participating telecommunications carriers.

(c) **Definitions.**

(1) **Qualifying low-income customer –** as defined in §26.412(c)(1) of this title (relating to Lifeline Service Program).

(2) **Income –** as defined in §26.412(c)(6) of this title.

(d) **Link Up Service Program.** This is a program certified by the Federal Communications Commission (FCC), pursuant to 47 C.F.R. §54.411, that provides a qualifying low-income customer with the following assistance:

(1) **Services.**

(A) A qualifying low-income customer shall receive a reduction in the participating telecommunications carrier's customary charge for commencing telecommunications service for a primary single line connection at the customer's principal place of residence. The reduction shall be half of the customary charge or $30, whichever is less.

(B) A qualifying low-income customer may receive a deferred schedule for payment of the charges assessed for commencing service, for which the customer does not pay interest. Interest shall be waived for connection charges of up to $200 that are deferred for a period not to exceed one year. Charges assessed for commencing service include any charges that the carrier customarily assesses to connect subscribers to the network. These charges do not include any permissible security deposit requirements. Deferred payment of these charges will not be subject to late fees or additional service fees.

(2) **Qualifying low-income customer choice.** A qualifying low-income customer is eligible for both of the services set forth in paragraph (1)(A) and (B) of this subsection.

(3) **Limitation on receipt.** A participating telecommunications carrier's Link Up Service shall allow a qualifying low-income customer to receive the benefit of Link Up Service on subsequent occasions only for a principal place of residence with an address different from the residence address at which the Link Up Service was provided previously.

(e) **Obligations of the customer.** Qualified low-income customers who want Link-up and do not have telephone service must initiate a request for service from a participating telecommunications carrier providing local service in their area.

(f) **Obligations of the participating telecommunications carrier.** Participating telecommunications carriers shall provide Linkup Service to all qualifying low-income customers in accordance with this section.

(1) **Tariff requirement.** Each participating telecommunications carrier shall file a tariff to implement Link Up Service, or revise its existing tariff for compliance with this section and with applicable law.

(2) **Reporting requirements.** Participating telecommunications carriers shall file the following information with the administrator of the Federal Lifeline/Link-up Program.

(A) the number of qualifying low-income customers served by the participating telecommunications carrier;

(B) the annual certification for ETCs;

(C) the amount of revenues the participating telecommunication carrier forgoes in reducing their customary charge for providing telecommunications service; and

(D) the amount of revenue the participating telecommunications carrier forgoes for providing a deferred schedule for payment of the charges assessed for commencing service for which customer does not pay interest.

(3) **Notice of Linkup Services.** A participating telecommunications carrier shall publicize the availability of Link-up service in a manner reasonably designed to reach those likely to qualify for the service.

(4) **Confidentiality agreements.** The confidentiality agreement executed by participating telecommunications carriers with HHSC for Lifeline Service also extends to Linkup Service.

§26.419. Telecommunication Resale Providers Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF) for Lifeline Service.

(a) **Scope and Purpose.** This section provides the requirements for the commission to designate certificated providers of local exchange telephone service that provide this service solely through the resale of an incumbent local exchange carrier's (ILEC) services as an eligible telecommunications provider (ETP) for the specific purpose of receiving funds for Lifeline Service from the Texas Universal Service Fund (TUSF) under §26.412 of this title (relating to the Lifeline Service Program). Only Resale ETPs as defined by §26.412(b)(2) of this title shall qualify to receive universal service support under this program.

(b) **Requirements for establishing ETP service areas.**

(1) **Texas High Cost Universal Service Plan (THCUSP) service area.** THCUSP service area shall be based upon wire centers (WCs) or other geographic area as determined appropriate by the commission. A telecommunications provider may be designated an ETP for any or all WCs contained within its certificated service area. An ETP must serve an entire WC or other geographic area as determined appropriate by the commission.

(2) **Small and Rural ILEC Universal Service Plan (SRIUSP) service area.** SRIUSP service area for an ETP serving in a small or rural ILEC's territory shall include the entire study area of such small or rural ILEC.

(c) **Criteria for designation of ETPs**. A Resale ETP as defined by §26.412(b)(2) of this title shall be eligible to receive TUSF support pursuant to §26.412 of this title for Lifeline Service only in each service area of a large company (THCUSP) or the study area of a small company (SRIUSP) for which it seeks ETP designation if it meets the following requirements:

(1) the Resale ETP defines its ETP service area pursuant to subsection (b) of this section and assumes the obligation to offer service to any customer in its ETP service area;

(2) offers Lifeline Services as provided by 47 C.F.R. Part 54, Subpart E; and

(3) advertises the availability of, and the charges for, supported services using media of general distribution.

(d) **Requirements for application for Resale ETP designation and commission processing of application.**

(1) **Requirements for notice and contents of application for Resale ETP designation.**

(A) **Notice of application.** Notice shall be published in the *Texas Register*. The presiding officer may require additional notice. Unless otherwise required by the presiding officer or by law, the notice shall include at a minimum a description of the service area for which the applicant seeks designation, the proposed effective date of the designation, and the following language: "Persons who wish to comment on this application should notify the Public Utility Commission by (specified date, ten days before the proposed effective date). Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the Public Utility Commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136, or use Relay Texas (800) 735-2989 to reach the commission's toll free number (888) 782-8477.

(B) **Contents of application.** A certificated provider of local exchange telephone service seeking to be designated as a Resale ETP shall file with the commission an application complying with the requirements of this section. In addition to copies required by other commission rules, one copy of the application shall be delivered to the commission staff and one copy shall be delivered to the Office of Public Utility Counsel. The application shall:

(i) demonstrate that the applicant is a certificated provider of local exchange telephone service that resells basic local telecommunication services, as defined in §26.403 of this title (relating to Texas High Cost Universal Service Plan (THCUSP));

(ii) demonstrate that the applicant assumes the obligation to offer Lifeline Services, as defined in §26.412 of this title, to any customer in its certificated service area;

(iii) demonstrate that the applicant will advertise the availability of and the charges for designated services, as defined in §26.403 of this title, using media of general distribution;

(iv) contain a statement detailing the content of the notice the applicant proposes for publication in the *Texas Register* regarding the application as well as a brief statement explaining why the proposed notice is reasonable and that it complies with applicable law;

(v) provide a copy of the text of the notice;

(vi) state the proposed effective date of the designation; and

(vii) provide any other information the applicant wants considered in connection with the commission's review of its application.

(2) **Commission processing of application.**

(A) **Administrative review.** An application considered under this section may be reviewed administratively unless the certificated provider of local exchange telephone service requests the application be docketed or the presiding officer, for good cause, determines at any point during the review that the application should be docketed.

(i) The effective date of the Resale ETP designation shall be no earlier than 30 days after notice is published in the *Texas Register*.

(ii) The application shall be examined for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant shall be notified within ten working days of the filing date of the specific deficiency in its application. The earliest possible effective date of the application shall be no earlier than 30 days after notice is published in the *Texas Register*.

(iii) While the application is being administratively reviewed, the commission staff and the staff of the Office of Public Utility Counsel may submit requests for information to the applicant. Three copies of all answers to such requests for information shall be provided to the commission staff and the Office of Public Utility Counsel within ten days after receipt of the request by the applicant.

(iv) No later than 20 days after the completion of notice, interested persons may provide written comments or recommendations concerning the application to the commission staff. The commission staff shall, and the Office of Public Utility Counsel may, file with the presiding officer written comments or recommendations regarding the application.

(v) No later than 35 days after the proposed effective date of the application, the presiding officer shall issue an order approving, denying, or docketing the application.

(B) **Approval of application.** The application will be approved by the presiding officer if it meets all the following requirements:

(i) The provision of service constitutes basic local telecommunications service as defined in §26.403 of this title and Lifeline Service as defined in §26.412 of this title.

(ii) Notice was provided as required by this section.

(iii) The applicant has met the requirements contained in this subsection.

(iv) The ETP designation is consistent with the public interest in a technologically advanced telecommunications system and consistent with the preservation of universal service.

(C) **Docketing.** If, based on the administrative review, the presiding officer determines that one or more of the requirements has not been met, the presiding officer shall docket the application. The requirements of this subsection may not be waived.

(D) **Review of the application after docketing.** If the application is docketed, the effective date of the application shall be automatically suspended until an order is issued in the proceeding granting the application. Three copies of all answers to requests for information shall be filed with the commission within ten days after receipt of the request. Affected persons may move to intervene in the docket, and a hearing on the merits shall be scheduled. A hearing on the merits shall be limited to issues of eligibility. The application shall be processed in accordance with the commission's rules applicable to docketed cases.

(e) **Relinquishment of ETP designation.** A certificated provider of local exchange telephone service may seek to relinquish its ETP designation. The relinquishment of an ETP designation does not relieve the certificated provider from its obligation to provide Lifeline Service.

(f) **Relinquishment for non-compliance.** The TUSF administrator shall notify the commission when the TUSF administrator is aware that a Resale ETP is not in compliance with the requirements of subsection (c) of this section. The commission shall revoke the ETP designation of any Resale ETP determined not to be in compliance with subsection (c) of this section.

(g) **Requirements for annual affidavit of compliance to receive TUSF support.** A Resale ETP serving a rural or non-rural study area shall comply with the following requirements for annual compliance for the receipt of TUSF support for Lifeline Services:

(1) **Annual Affidavit of Compliance**. On or before September 1 of each year, a Resale ETP that receives disbursements from the TUSF shall file with the commission an affidavit certifying that the ETP is in compliance with the requirements for receiving money from the universal service fund and requirements regarding the use of money from each TUSF program from which the telecommunications provider receives disbursements.

(2) **Filing Affidavit**. The affidavit used shall be the annual compliance affidavit approved by the commission.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §26.412, relating to Lifeline Service Program and §26.413, relating to the Link Up Service Program are hereby adopted with changes to the text as proposed. Section 26.419, relating to Telecommunication Resale Providers' Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF) for Lifeline Service is hereby adopted with no changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE _________ DAY OF MARCH 2007.

PUBLIC UTILITY COMMISSION OF TEXAS

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PAUL HUDSON, CHAIRMAN

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JULIE PARSLEY, COMMISSIONER

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BARRY T. SMITHERMAN, COMMISSIONER

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