

**PROJECT NO. 41024**

<b>RULEMAKING TO CONSIDER</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>AMENDING SUBSTANTIVE RULE</b>	<b>§</b>	
<b>§26.412 RELATING TO LIFELINE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>SERVICE PROGRAM AND §26.413,</b>	<b>§</b>	
<b>RELATING TO LINK UP SERVICE</b>	<b>§</b>	
<b>PROGRAM</b>	<b>§</b>	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §26.412 and §26.413  
AS APPROVED AT THE AUGUST 9, 2013 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §26.412, relating to Lifeline Service Program, and §26.413, relating to Link Up Service Program. The proposed amendments will amend commission substantive rules relating to Lifeline to conform to changes made by the Federal Communications Commission (FCC) to the federal Lifeline rule. Project Number 41024, is assigned to this proceeding.

Jay Stone, Program Administrator in the Operations Division, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Jay Stone has also determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of enforcing the sections, will be compliance with the federal Lifeline rules. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Jay Stone has also determined that for each year of the first five years the proposed sections are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested, pursuant to the Administrative Procedure Act, Texas government Code §2001.029, at the commission's offices located in the William B. Travis building, 1701 North Congress Avenue, Austin, Texas 78701. The request for a public hearing must be received within 21 days after publication.

Comments on the proposed sections may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Friday, September 13, 2013. Sixteen copies of comments to the proposed sections are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the amended rule. All comments should refer to Project Number 41024.

The amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2012) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and specifically PURA §§17.004, 55.015, and 56.021.

Cross Reference to Statutes: Public Utility Regulatory §14.002.

**§26.412. Lifeline Service Program.**

- (a) (No change.)
- (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) or a carrier designated as an ETC by the FCC pursuant to 47 C.F.R. §54.201.
  - (2) (No change.)
  - (3) Resale ETP (R-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 a R-ETP~~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) (No change.)
- (c) **Definitions.**
- (1) – (4) (No change.)
  - (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 as referenced in 47 C.F.R §54.400.

- (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 criteria of paragraph (1), (2), or (3) of this subsection as determined by the Low-Income Discount Administrator (LIDA)~~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) (No change.)
- (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, Supplemental Nutrition Assistance Program (SNAP)~~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, National School Lunch Program -- Free Lunch Program, Temporary Assistance for Needy Families (TANF); or

- (3) A customer is an eligible resident of tribal lands as defined in subsection (c)(5) of this section. In addition to the programs listed in subsection (d)(2) of this section, residents of tribal lands may qualify if they are in one of the programs listed in 47 C.F.R. §54.409 (b).

(e) **Lifeline Service Program.** Each Lifeline provider shall provide Lifeline Service as provided by this section. Lifeline Service is a non-transferable 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) (No change.)
- (3) Disconnection of service.

(A) Disconnection. A certificated provider of local exchange service shall be prohibited from disconnecting basic network services listed in PURA §58.051 to a customer who receives Lifeline Service because of nonpayment by the customer of charges for other services billed by the provider, including interexchange telecommunications service.

(B) A certificated provider of local exchange service may block a lifeline service customer's access to all interexchange telecommunications service except toll-free numbers when the customer owes an outstanding amount for that service. The provider shall remove the block without additional cost to the customer on payment of outstanding amount.

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

~~(C)(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~~ self-enroll with the LIDA upon the expiration of their automatic enrollment.

~~(D)(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 the 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) – (7) (No change.)

(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 so long as the total of all the Lifeline discounts combined does not result in a rate of less than zero for a customer's basic local service. Should the total of all Lifeline discounts result in a rate of less than zero on a customer's bill, the Lifeline provider shall only provide a Lifeline discount amount up to the price a customer is charged for basic local service.

~~(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 Incumbent Local Exchange Carrier (ILEC) serving the area of the qualifying low-income customer.~~

~~(A)(B) Federally approved \$1.75 reduction – Up to the federal monthly basic Lifeline support amount outlined in 47 C.F.R. 54.403A — Lifeline Provider shall give 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).~~

~~(B) Additional federal Lifeline reduction for an eligible customer who is a resident of Tribal Lands, as defined in 47 C.F.R. §54.400, up to the federal monthly Lifeline amount outlined in 47 C.F.R. §54.403.~~

(C) ~~State reduction~~~~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).~~

~~(D)(F) Additional~~ Texas High Cost Universal Service Plan (THCUSP) Incumbent Local Exchange Carrier (ILEC)~~ILEC~~ Area Discount --

(i) ~~All~~~~Beginning January 1, 2009,~~ Lifeline providers operating in the service areas of Southwestern Bell Telephone Company d/b/a AT&T Texas, GTE Southwest Incorporated d/b/a Verizon Southwest, Central Telephone Company d/b/a CenturyLink~~Embarq~~, United Telephone Company d/b/a CenturyLink~~Embarq~~, and Windstream Communications Southwest, or their successors, (collectively, THCUSP ILECs) shall provide a reduction (THCUSP ILEC Area Discount) up to equal to 25% of any actual increase by a THCUSP ILEC to its residential basic network service rate that occurs in a THCUSP

ILEC's Public Utility Regulatory Act (PURA) Chapter 58 regulated exchanges ~~and is consistent with the Unanimous Settlement Agreement filed on April 8, 2008, and adopted by the commission in its Order filed on April 25, 2008, in Docket Number 34723, Petition for Review of Monthly Line Support Amounts from the Texas High Cost Universal Service Plan, Pursuant to PURA §56.031 and P.U.C. SUBST. R. §26.403 (Rate Increase) and with new §26.403 of this title adopted by the commission in Project Number 39937, Rulemaking to Consider Amending Substantive Rule §26.403, Relating to the Texas High Cost Universal Service Plan and Substantive Rule §26.412, Relating to the Lifeline Service Program.~~

(ii) – (iii) (No change.)

(iv) A THCUSP ILEC shall file with the commission tariffs implementing a THCUSP ILEC Area Discount at the time it files for a rate increase. The effective date of a THCUSP ILEC Area Discount shall have the same effective date as the corresponding rate increase~~Rate Increase.~~

(v) (No change.)

~~(vi) The effective date of a THCUSP ILEC Area Discount shall have the same effective date as the corresponding Rate Increase.~~

~~(E)(G) Additional~~ Small and Rural Incumbent Local Exchange Company Universal Service Plan (SRILEC USP) Area Discount -

(i) Beginning January 1, 2014, all Lifeline providers operating in the service areas of those incumbent local exchange carriers that participate in the ~~SRILEC USP Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan (SRILEC USP ILEC)~~ shall provide an increase in the Lifeline service discount up to equal to 25% of any actual increase by a SRILEC USP ILEC to its residential basic network service rate that occurs in a SRILEC USP ILEC's regulated exchanges and is consistent with §26.404 of this title (relating to Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan).

(ii) A SRILEC shall file with the commission tariffs implementing a SRILEC USP Area Discount at the time it files for a rate increase. The effective date of a SRILEC USP Area Discount shall have the same effective date as the corresponding rate increase

(iii) A CLEC Lifeline provider operating in the service area of a SRILEC shall file with the commission tariffs or price lists implementing the appropriate SRILEC USP Area Discount.

(2) **Lifeline support amounts.** The following Lifeline providers shall receive support amounts for the Lifeline discounts outlined in paragraph (1) of this subsection. Note: A Lifeline provider shall not receive a support amount greater than the amount it provided to each qualifying Lifeline customer.:

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

- (i) Federally approved support amount pursuant to 47 C.F.R. §54.403.
- (ii) Additional federal Lifeline reduction for an eligible resident of Tribal Lands, as defined in 47 C.F.R. §54.400 -- up to the federal monthly Lifeline amount outlined in 47 C.F.R. §54.403.
- ~~(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 --

- (i) State support of up to a maximum of \$3.50.
- (ii) THCUSP ILEC Area support -- Amount calculated pursuant to paragraph (1)(D) of this subsection.
- (iii) SRILEC USP support -- Amount calculated pursuant to paragraph (1)(E) of this subsection.

~~(i) An ETP shall receive state support of up to a maximum of \$3.50 which is eligible for federal matching as described in paragraph (1)(C) of this subsection.~~

~~(ii) An ETP operating in the service areas of the THCUSP ILECs shall receive additional state support equal to the discount prescribed by paragraph (1)(F) of this subsection.~~

~~(iv)(iii)~~ If an ETP has been designated as an ETC, then the certificated provider shall also receive support amounts prescribed by subparagraph (A) of this paragraph.

(C) Resale ETP -- A resale ETP shall receive Lifeline Service support up to or 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 ~~TUSF~~Texas Universal Service Fund (TUSF), regardless of whether the Lifeline Service Discount is state or federally mandated, will provide ~~the~~all Lifeline Service support so long as the total of all the Lifeline discounts combined does not result in a rate of less than zero for a customer's basic local service. Should the total of all Lifeline discounts result in a rate of less than zero on a customer's bill, the Lifeline provider shall only provide a Lifeline discount amount up to the price a customer is charged for basic local service.

- (i) Federally approved support amount pursuant to 47 C.F.R. §54.403.
- (ii) Additional federal Lifeline reduction for an eligible resident of Tribal Lands, as defined in 47 C.F.R. §54.400 -- up to the federal monthly Lifeline amount outlined in 47 C.F.R. §54.403;
- (iii) State support of up to a maximum of \$3.50.
- (iv) THCUSP Area support -- Amount calculated pursuant to paragraph (1)(D) of this subsection.
- (v) SRILEC USP support -- Amount calculated pursuant to paragraph (1)(E) of this subsection.
- ~~(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);~~

~~(v) A resale ETP shall receive state mandated support of up to a maximum of \$3.50 which is eligible for federal matching as described in paragraph (1)(C) of this subsection; and~~

~~(vi) A Resale ETP operating in the service areas of the THCUSP ILECs shall receive additional state support equal to the discount prescribed by paragraph (1)(F) of this subsection.~~

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

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

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

(A) – (C) (No change.)

~~(D)~~ The LIDA shall provide a self-enrollment form by direct mail at the customer's request.

~~(E)(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) – (ii) (No change.)

(iii) Monthly, all ETCs, ETPs, RETPs, and certificated providers providing telephone service in Texas must provide a file of its residential customers in a format and date determined by LIDA, for Lifeline processing.

(iv)(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.

(v)(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) (No change.)

(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) (No change.)

~~(iii)~~ Quarterly reporting requirements, Non-ETP certificated Lifeline providers shall report to the commission its Lifeline activity as required. Certificated non-ETPs shall use the *Report of Lifeline Service Provided by Non-ETP's* form located on the PUC website to provide this information.

~~(iv)(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.~~

~~(v)(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 ETP's 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) (No change.)
- (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. All Lifeline

providers are required to file a copy of the annual bill message in the designated project at the commission;

(iii) – (iv) (No change.)

(E) (No change.)

§26.413. Link Up For Tribal Lands~~Service Program~~.

(a) **Scope and purpose.** Through this section, the commission seeks to extend Link Up Service to all qualifying customers who are a resident of Tribal lands as defined in 47 C.F.R. 54.400 and define the responsibilities of participating telecommunications carriers and qualified customers.

(b) (No change.)

(c) Definitions.

(1) – (2) (No change.)

(3) **Eligible resident of Tribal lands** -- A “qualifying low-income customer,” as defined in paragraph (1) of this subsection, living on 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.

(d) **Link Up for Tribal Lands**~~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 100 percent~~half~~ of the customary charge or \$100~~\$30~~, whichever is less.

(B) (No change.)

(2) (No change.)

(3) **Limitation on receipt.** A participating telecommunications carrier's Link Up for Tribal LandsService 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 for Tribal LandsService was provided previously.

(e) **Obligations of the customer.** Qualified low-income customers who want Link Up for Tribal Lands-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 for Tribal LandsService 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 for Tribal LandsService, 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.~~

~~(2)(3)~~ **Notice of Link Up for Tribal LandsLinkup Services.** A participating telecommunications carrier shall publicize the availability of Link Up for Tribal LandsLinkup service in a manner reasonably designed to reach those likely to qualify for the service.

~~(3)(4)~~ **Confidentiality agreements.** The confidentiality agreement executed by participating telecommunications carriers with HHSC for Lifeline Service also extends to Link Up for Tribal LandsLinkup Service.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 13TH DAY OF AUGUST 2013 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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