

PROJECT NO. 22472

**RULEMAKING TO AMEND THE § PUBLIC UTILITY COMMISSION
TEXAS UNIVERSAL SERVICE §
FUND RULES § OF TEXAS**

**PROPOSED AMENDMENTS TO §§26.403, 26.417 AND 26.420 AS APPROVED
FOR PUBLICATION AT THE MARCH 7, 2001 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §26.403 relating to Texas High Cost Universal Service Plan (THCUSP), §26.417 relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF), and §26.420 relating to Administration of Texas Universal Service Fund (TUSF). The proposed amendments are comprised of several minor non-substantive changes and clarifications and one substantive revision to §26.403(e)(3)(C). Project Number 22472 has been assigned to this proceeding.

Non-substantive changes to rule language

Proposed §26.403 includes minor non-substantive corrections or clarifications and revisions related to the timing of the commission's subsequent determinations regarding the Texas High Cost Universal Service Plan (THCUSP). As directed by Order Number 1, Granting Waiver for Good Cause, issued on February 16, 2001 in Project Number 22472, the amendment revises the review date to three years from March 1, 2000, the date in which the THCUSP was implemented.

Proposed §26.417 amends internal references and reflects minor non-substantive changes implementing PURA §56.021 and §56.023, as amended by Senate Bill 560, 76th Legislative Session (SB 560). Specifically, proposed §26.417(b)(1) replaces the use of "census block groups" (CBGs) in the determination of a THCUSP service area with the use of "wire centers." The revision is in accordance with the Final Order in Project Number 18515, *Compliance Proceeding for Implementation of the Texas High Cost Universal Service Plan*, issued on January 14, 2000.

Proposed §26.420 revises internal references and reflects minor non-substantive changes relating to the implementation and administration of the TUSF. The revisions reflect decisions made in Project Number 19655, *Implementation of P.U.C. SUBST. R. §23.150 (f) and (g)*, and the implementation of PURA §56.026(c), as amended by SB 560.

Substantive change to rule language

Proposed §26.403(e)(3)(C)(i) and (ii) amend the adjustments for services provided solely or partially through unbundled network elements (UNEs). As directed by Order Number 1, Granting Waiver for Good Cause, issued on February 16, 2001 in Project Number 22472, the proposed amendments make the provisioning of services via unbundled network elements (UNEs) more attractive in rural areas, therefore, stimulating competition in rural Texas.

Patricia Zacharie, Staff Attorney, Legal 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.

Patricia Zacharie has 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 these sections will be to implement a competitively neutral mechanism that enables all residents of the state to obtain basic telecommunications services needed to communicate with other residents, businesses, and governmental entities. There will be no effect on small businesses or micro-businesses as a result of enforcing these sections. There is no anticipated economic cost to persons who are required to comply with these sections as proposed.

Patricia Zacharie 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 §2001.022.

The commission staff will conduct a public hearing on this rulemaking under Government Code §2001.029 at the commission's offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, beginning at 10:00 a.m. in the Commissioners' Hearing Room on Wednesday, May 23, 2001.

Comments on the proposed amendments (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Reply comments may be submitted within 45 days after publication. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed amendments. The commission will consider the costs and benefits in deciding whether to adopt the amendments. All comments should refer to Project Number 22472.

In addition to general comments on the proposed amendments, the commission seeks specific comments on whether a new rulemaking should be opened to expand the quality of service rules (§26.52, Emergency Operations, §26.53, Inspections and Tests, and §26.54, Service Objectives and Performance Benchmarks) to include wireless technologies.

The commission also seeks specific comments on alternative methods for the implementation of the sharing mechanism in §26.403(e)(3)(C)(i) and (ii). Comments should include actual examples of how the alternative method would impact wire centers in the state.

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2001) (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, including rules of practice and procedure;

specifically, PURA §56.021 which requires the commission to adopt and enforce rules requiring local exchange companies to establish a universal service fund; and §56.023 which requires the commission to adopt rules for the administration of the universal service fund.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 56.021-56.028.

§26.403. Texas High Cost Universal Service Plan (THCUSP).

(a) (No change.)

(b) **Definitions.** The following words and terms when used in this section shall have the following meaning unless the context clearly indicates otherwise:

(1) – (5) (No change.)

(6) **Zone 2** — Loop rate that includes Rate Groups 4, 5, and 6 (suburban) as defined in the ETP's local exchange tariff.

(c) (No change.)

(d) **Service to be supported by the THCUSP.** The THCUSP shall support basic local telecommunications services provided by an ETP in high cost rural areas of the state and is limited to those services carried on all flat rate residential lines and the first five flat rate single-line business lines at a business customer's location. Local measured residential service, if chosen by the customer and offered by the ETP, shall also be supported.

(1) **Initial determination of the definition of basic local telecommunications service.** Basic local telecommunications service shall consist of the following:

(A) – (E) (No change.)

(F) telecommunications ~~dual-party~~ relay service;

(G) – (J) (No change.)

(2) **Subsequent determinations.**

(A) Timing of subsequent determinations.

(i) The definition of the services to be supported by the THCUSP shall be reviewed by the commission every three years from

March 1, 2000~~February 10, 1998.~~

(ii) (No change.)

(B) (No change.)

(e) **Criteria for determining amount of support under THCUSP.** The TUSF administrator shall disburse monthly support payments to ETPs qualified to receive support pursuant to this section. The amount of support available to each ETP shall be calculated using the base support amount available as provided under paragraph (1) of this subsection as adjusted by the requirements of paragraph (3) of this subsection.

(1) (No change.)

(2) **Proceedings to determine THCUSP base support.**

(A) Timing of determinations.

(i) The commission shall review the forward-looking cost methodology, the benchmark levels, and/or the base support amounts every three years from March 1, 2000~~February 10, 1998.~~

(ii) (No change.)

(B) (No change.)

(3) **Calculating amount of THCUSP support payments to individual ETPs.**

After the monthly base support amount is determined, the TUSF administrator shall make the following adjustments each month in order to determine the actual support payment that each ETP may receive each month.

(A) – (B) (No change.)

(C) Adjustment for service provided solely or partially through the purchase of unbundled network elements (UNEs). ~~If an ETP provides supported services over an eligible line solely or partially through the purchase of UNEs, the THCUSP support for such eligible line may be allocated between the ETP providing service to the end user and the ETP providing the UNEs according to the methods outlined below.~~

(i) If an ETP provides supported services over an eligible line solely or partially through the purchase of UNEs, and the price of the UNE is greater than the statewide average loop rate for the ETP provisioning the UNE, then the ETP providing the service to the end user shall receive the difference between the price of the UNE and the statewide average loop rate. If the ETP provisioning the UNE does not have a statewide average loop rate, the Zone 2 loop rate shall be used. If the THCUSP support amount is not adequate to reimburse the ETP

providing the service to the end user for the difference between the price of the UNE and the statewide average loop rate, then the ETP providing the service to the end user shall receive the entire support amount. If the THCUSP support amount is greater than the difference between the price of the UNE and the statewide average loop rate, then the remainder of the THCUSP support shall be allocated to the ETP provisioning the UNE. Solely through UNEs.

~~(I) — USF cost > (UNE rate + retail cost additive (R)) > revenue benchmark (RB). USF support should be explicitly shared between the ETP serving the end user and the ILEC selling the UNEs in the instance in which the area specific USF cost/line exceeds the sum of (combined UNE rate/line + R), and the latter exceeds the RB. Specifically, the ILEC would receive the difference between USF cost and (UNE rate + R), while the ETP would receive the difference between (UNE rate + R) and RB. Splitting the USF support payment in this way allows both the ILEC and the ETP to recover, on average, the costs of serving the subscriber at rates consistent with the benchmark. Moreover, this solution is competitively neutral in an~~

~~additional respect: the ILEC, as the carrier of last resort (COLR), is indifferent between directly serving the average end user and indirectly doing so through the sale of UNEs to a competing ETP. Also, facilities-based competition is encouraged only if it is economic, i.e., reflective of real cost advantages in serving the customer; or~~

~~(II) $USF\ cost > RB > (UNE\ rate + R)$. The ILEC would receive the difference between USF cost and RB. In this case, where $USF\ cost > RB > (UNE\ rate + R)$, giving $(USF\ cost - RB)$ to the ILEC is necessary to diminish the undue incentive for the ETP to provide service through UNE resale, and to lessen the harm done to the ILEC in such a situation. Allowing the ILEC to recover $(USF\ cost - RB)$ would minimize financial harm to the ILEC; or~~

~~(III) $(UNE\ rate + R) > USF\ cost > RB$. The ETP would receive the difference between USF cost and RB. Where $(UNE\ rate + R) > USF\ cost > RB$, giving $(USF\ cost - RB)$ to the ETP is necessary to diminish the undue incentive for the ETP not to serve the end user by means of UNE resale. Allowing the ETP to recover~~

~~(USF cost – RB) would minimize financial harm to the ETP.~~

- (ii) If an ETP provides supported services over an eligible line solely or partially through the purchase of UNEs, and the price of the UNE is equal to or less than the statewide average loop rate for the ETP provisioning the UNE, then the THCUSP support shall be allocated to the ETP provisioning the UNE. If the ETP provisioning the UNE does not have a statewide average loop rate, the Zone 2 loop rate shall be used. ~~Partially through UNEs. For the partial provision scenario, THCUSP support shall be shared between the ETP and the ILEC based on the percentage of total per line cost that is self-provisioned by the ETP. Cost category percentages for each wire center shall be derived by adding a retail cost additive and the HAI model costs for five UNEs (loop, line port, end office usage, signaling, and transport). The ETP's retail cost additive shall be derived by multiplying the ILEC specific wholesale discount percentage by the appropriate (residential or business) revenue benchmark.~~

(f) – (g) (No change.)

§26.417. Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF).

(a) (No change.)

(b) Requirements for establishing ETP service areas.

(1) **THCUSP service area.** THCUSP service area shall be based upon wire centers (WCs)~~ensus block groups (CBGs)~~ or other geographic area as determined appropriate by the commission. A telecommunications provider may be designated an ETP for any or all WCs~~CBGs~~ that are wholly or partially contained within its certificated service area. An ETP must serve an entire WCCBG, or other geographic area as determined appropriate by the commission, unless its certificated service area does not encompass the entire WCCBG, or other geographic area as determined appropriate by the commission.

(2) (No change.)

(c) Criteria for designation of ETPs.

(1) Telecommunications providers. A telecommunications provider, as defined in the Public Utility Regulatory Act (PURA) §51.002(10)~~§26.5 of this title (relating to Definitions)~~, shall be eligible to receive TUSF support pursuant to

§26.403 or §26.404 of this title in each service area for which it seeks ETP designation if it meets the following requirements:

(A) (No change.)

(B) the telecommunications provider defines its ETP service area pursuant to subsection ~~(b)~~(e) of this section and assumes the obligation to offer any customer in its ETP service area basic local telecommunications services, as defined in §26.403 of this title, at a rate not to exceed 150% of the ILEC's tariffed rate;

(C) – (F) (No change.)

(2) **ILECs.** If the telecommunications provider ILEC is an ILEC, as defined in §26.5 of this title (relating to Definitions), it shall be eligible to receive TUSF support pursuant to §26.403 of this title in each service area for which it seeks ETP designation if it meets the requirements of paragraph (1) of this subsection and the following requirements:

(A) – (C) (No change.)

(d) – (e) (No change.)

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

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

- (A) (No change.)
- (B) Contents of application. A telecommunications provider seeking to be designated as an ETP for a high cost service area in this state 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.
 - (i) Telecommunications providers. The application shall:
 - (I) show that the applicant is a telecommunications provider as defined in [PURA §51.002\(10\)](#) ~~§26.5 of this title;~~
 - (II) – (XI) (No change.)
 - (ii) (No change.)
- (2) (No change.)
- (g) – (h) (No change.)

§26.420. Administration of Texas Universal Service Fund (TUSF).

(a) (No change.)

(b) **Programs included in the TUSF.**

(1) – (4) (No change.)

(5) ~~Section 26.410 of this title (relating to Universal Service Fund Reimbursement for Certain IntraLATA Service);~~

(6)~~(5)~~ Section 26.412 of this title (relating to Lifeline Service and Link Up Service Programs);

(7)~~(6)~~ Section 26.413 of this title (relating to Tel-Assistance Service);

(8)~~(7)~~ Section 26.414 of this title (relating to Telecommunications Relay Service (TRS));

(9)~~(8)~~ Section 26.415 of this title (relating to Specialized Telecommunications Assistance Program (STAP));

(10)~~(9)~~ Section 26.417 of this title (relating to Designation ~~of Local Exchange Companies~~ as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF));

(11)~~(10)~~ Section 26.418 of this title (relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds); and

(12)~~(11)~~ Section 26.420 of this title (relating to Administration of Texas Universal Service Funds (TUSF)).

(c) – (d) (No change.)

~~(e) — Transition from existing USF programs to the TUSF.~~

~~(1) — Continuation of assessments and disbursements for periods prior to the implementation of TUSF programs. — The TUSF administrator shall administer all outstanding assessment and disbursement obligations to support mechanisms existing on the effective date of this section, for periods prior to the implementation date of the programs in subsection (b) of this section.~~

~~(2) — Implementation of programs included in the TUSF and termination of existing support mechanisms. — The TUSF administrator shall ensure that the collection of assessments from telecommunication providers pursuant to subsection (g) of this section, the disbursement of support amounts to ETPs pursuant to subsection (h) of this section, and the termination of support mechanisms existing on the effective date of this section, occur on a uniform date. — In the event that interim assessments and disbursements are necessary prior to the establishment of final assessment and disbursement levels, they shall be subject to true up to the final level of funding.~~

~~(e)(f)~~ **Determination of the amount needed to fund the TUSF.**

(1) **Amount needed to fund the TUSF.** The amount needed to fund the TUSF shall be composed of the following elements.

- (A) Costs of TUSF programs. The TUSF administrator shall compute and include the costs of the following TUSF programs:
- (i) Texas High Cost Universal Service Plan, §26.403 of this title;
 - (ii) Small and Rural ILEC Universal Service Plan, §26.404 of this title;
 - (iii) Implementation of the Public Utility Regulatory Act §56.025, §26.406 of this title;
 - (iv) Additional Financial Assistance, §26.408 of this title;
 - (v) Reimbursement for Certain IntraLATA Service, §26.410 of this title;
 - ~~(vi)(v)~~ Lifeline Service and Link Up Service, §26.412 of this title;
 - ~~(vii)(vi)~~ Tel-Assistance Service, §26.413 of this title;
 - ~~(viii)(vii)~~ Telecommunications Relay Service, §26.414 of this title; and
 - ~~(ix)(viii)~~ Specialized Telecommunications Assistance Program (STAP), §26.415 of this title.
- (B) Costs of implementation and administration of the TUSF. The TUSF implementation and administration costs shall include appropriate costs associated with the implementation and administration of the TUSF incurred by the commission (including the costs incurred by the TUSF administrator on behalf of the commission), any costs incurred by the Texas Department of Human Services caused by its

administration of the ~~Lifeline, Link Up, and~~ Tel-Assistance programs, and any costs incurred by the Texas Commission for the Deaf and Hard of Hearing caused by its administration of the Specialized Telecommunications Assistance Program (STAP) and the Telecommunications Relay Service programs.

(C) Reserve for contingencies. The TUSF administrator shall establish a reserve for such contingencies as late payments and uncollectibles in an amount authorized by the commission.

(2) **Determination of amount needed.** After the initial determination, the TUSF administrator shall determine, on a periodic basis, the amount needed to fund the TUSF. The determined amount shall be approved by the commission.

~~(f)(g)~~ **Assessments for the TUSF.**

(1) **Providers subject to assessments.** The TUSF assessments shall be payable by all telecommunications providers having access to the customer base; including but not limited to wireline and wireless providers of telecommunications services.

(2) **Basis for assessments.** Assessments shall be made to each telecommunications provider based upon its monthly taxable telecommunications receipts reported by that telecommunications provider under Chapter 151, Tax Code.

- (3) **Assessment.** Each telecommunications provider shall pay its TUSF assessment each month as calculated using the following procedures.
- (A) Calculation of assessment rate. The TUSF administrator shall determine an assessment rate to be applied to all telecommunications providers on a periodic basis approved by the commission.
- (B) Calculation of assessment amount. Payments to the TUSF shall be computed by multiplying the assessment rate determined pursuant to subparagraph (A) of this paragraph by the basis for assessments as determined pursuant to ~~paragraph (2) subsection (g)(2)~~ of this ~~subsection~~ subsection.
- (4) **Reporting requirements.** ~~Each~~ Every month, ~~each~~ telecommunications provider shall be required to report taxable telecommunications receipts under Chapter 151, Tax Code ~~as required by~~ the commission or the TUSF administrator.
- (5) **Recovery of assessments.** A telecommunications provider may recover the amount of its TUSF assessment only from its retail customers who are subject to tax under Chapter 151 of the Tax Code, except for Lifeline, Link Up, and Tel-Assistance services. The commission may order modifications in a telecommunications provider's method of recovery.
- (A) Retail customers' bills. In the event a telecommunications provider chooses to recover its TUSF assessment through a surcharge added to its retail customers' bills;

- (i) the surcharge must be listed on the retail customers' bills as "Texas Universal Service TX USF Charge x.xx%"; and
 - (ii) the surcharge must be assessed as a percentage of every retail customers' bill, except Lifeline, Link Up, and Tel-Assistance services.
- (B) Commission approval of surcharge mechanism. An ILEC choosing to recover the TUSF assessment through a surcharge on its retail customers' bills must file for commission approval of the surcharge mechanism.
- (C) Tariff changes. A telecommunications provider choosing to recover the TUSF assessment through a surcharge on its retail customers' bills shall file the appropriate changes to its tariff and provide supporting documentation for the method of recovery.
- (D) Recovery period. A single universal service fund surcharge shall not recover more than one month of assessments.
- (6) **Disputing assessments.** Any telecommunications provider may dispute the amount of its TUSF assessment. The telecommunications provider should endeavor to first resolve the dispute with the TUSF administrator. If the telecommunications provider and the TUSF administrator are unable to satisfactorily resolve their dispute, either party may petition the commission to resolve the dispute. Pending final resolution of disputed TUSF assessment

rates and/or amounts, the disputing telecommunications provider shall remit all undisputed amounts to the TUSF administrator by the due date.

~~(g)~~^(h) **Disbursements from the TUSF to ETPs, ILECs, other entities and agencies.**

(1) **ETPs, ILECs, other entities, and agencies.**

(A) ETPs. The commission shall determine whether an ETP qualifies to receive funds from the TUSF. An ETP qualifying for the following programs is eligible to receive funds from the TUSF:

- (i) Texas High Cost Universal Service Plan;
- (ii) Small and Rural ILEC Universal Service Plan;
- (iii) Lifeline Service and Link Up Service; and/or
- (iv) Tel-Assistance Service.

(B) ILECs. The commission shall determine whether an ILEC qualifies to receive support from the following TUSF programs:

- (i) Implementation of the Public Utility Regulatory Act §56.025; and/or
- (ii) Additional Financial Assistance program.

(C) Other entities. The commission shall determine whether other entities qualify to receive funds from the TUSF. Entities qualifying for the following programs are eligible to receive funds from the TUSF:

- (i) Telecommunications Relay Service; and/or
- (ii) Specialized Telecommunications Assistance Program.

(D) Agencies. The commission, the Texas Department of Human Services, the Texas Commission for the Deaf and Hard of Hearing, and the TUSF administrator are eligible for reimbursement of the costs directly and reasonably associated with the implementation of the provisions of PURA Chapters 56 and 57~~the TUSF~~.

(2) **Reporting requirements.**

(A) ETPs. An ETP shall report to the TUSF administrator as required by the provisions of the section or sections under which it qualifies to receive funds from the TUSF.

(B) Other entities. A qualifying entity shall report to the TUSF administrator as required by the provisions of the section or sections under which it qualifies to receive funds from the TUSF.

(C) Agencies. A qualifying agency shall report its qualifying expenses to the TUSF administrator each month.

(3) **Disbursements.**

(A) The TUSF administrator shall verify that the appropriate information has been provided by each ETP, local exchange company (LEC), other entities or agencies and shall issue disbursements to ETPs, LECs, other entities and agencies within 4530 days of the due date of their reports except as otherwise provided.

(B) If an electing LEC, as defined in §26.5 of this title (relating to Definitions), reduces rates in conjunction with receiving

disbursements from the TUSF, the commission may not reduce the amount of those disbursements below the initial level of disbursements upon implementation of the TUSF, except that:

- (i) if a local end user customer of the electing company switches to another local service provider that serves the customer entirely through the use of its own facilities and not partially or solely through the use of unbundled network elements, the electing LEC's disbursement may be reduced by the amount attributable to that customer under PURA §56.021(1); or
- (ii) if a local end user customer of the electing company switches to another local service provider, and the new local service provider serves the customer partially or solely through the use of unbundled network elements provided by the electing LEC, the electing LEC's disbursement attributable to that customer under PURA §56.021(1) may be reduced according to the commission established equitable allocation formula for the disbursement as described in §26.403(e)(3)(C) of this title (relating to Texas High Cost Universal Service Plan (THCUSP)).

(h)(i) **True-up.** The assessment amount determined pursuant to subsections (e) and (f)~~and (g)~~ of this section shall be subject to true-up as determined by the TUSF

administrator and approved by the commission. True-ups shall be limited to a three year period for under-reporting and a one year period for over-reporting.

~~(i)~~ **Sale or transfer of exchanges.**

- (1) An ETP that acquires exchanges from an unaffiliated small or rural ILEC receiving support for those exchanges pursuant to §26.404 of this title, shall receive the per-line support amount for which those exchanges were eligible prior to the sale or transfer.
- (2) An ETP that acquires exchanges from an unaffiliated ETP receiving support for those exchanges pursuant to §26.403 of this title, shall receive the per-line support amount for which those exchanges were eligible prior to the transfer of the exchanges.

~~(j)~~ **Proprietary information.** The commission and the TUSF administrator are subject to the Texas Open Records Act, Texas Government Code, Chapter 552. Information received by the TUSF administrator from the individual telecommunications providers shall be treated as proprietary only under the following circumstances:

- (1) An individual telecommunications provider who submits information to the TUSF administrator shall be responsible for designating it as proprietary at the time of submission. Information considered to be confidential by law, either constitutional, statutory, or by judicial decision, may be properly designated as proprietary.

- (2) An individual telecommunications provider who submits information designated as proprietary shall stamp on the face of such information "PROPRIETARY PURSUANT TO PUC SUBST. R. §26.420 (j) ~~(k)~~".
- (3) The TUSF administrator may disclose all information from an individual telecommunications provider to the telecommunications provider who submitted it or to the commission and its designated representatives without notifying the telecommunications provider.
- (4) All third party requests for information shall be directed through the commission. If the commission or the TUSF administrator receives a third party request for information that a telecommunications provider has designated proprietary, the commission shall notify the telecommunications provider. If the telecommunications provider does not voluntarily waive the proprietary designation, the commission shall submit the request and the responsive information to the Office of the Attorney General for an opinion regarding disclosure pursuant to the Texas Open Records Act, Texas Government Code, Chapter 552, Subchapter G.

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

**ISSUED IN AUSTIN, TEXAS ON THE 16th DAY OF MARCH 2001 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**