

**PROJECT NO. 46053**

<b>RULEMAKING PROCEEDING TO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>AMEND 16 TEX. ADMIN. CODE</b>	<b>§</b>	
<b>§ 26.420(f), ASSESSMENTS TO THE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TUSF</b>	<b>§</b>	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §26.420(f)  
APPROVED AT THE JUNE 29, 2017 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to 16 Tex. Admin. Code § 26.420(f) (TAC), relating to administration of the Texas Universal Service Fund (TUSF). The proposed amendment will exempt certain telecommunications providers from having to pay TUSF assessments on telecommunications services they provide to their guests or tenants. Project Number 46053 is assigned to this proceeding.

Mr. James Kelsaw, Utility Analyst, Competitive Markets Division, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Kelsaw has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be to improve the administration of the TUSF by clarifying which providers have to pay TUSF assessments. 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 section as proposed.

Mr. Kelsaw has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act, 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 30 days after publication.

Comments on the proposed amendments 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, July 28, 2017. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted by Monday, August 7, 2017. Comments should be organized in a manner consistent with the organization of the proposed amendment. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 46053.

The amendment proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 and Supp. 2016) (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 §56.023 which requires the commission to adopt procedures to fund the TUSF.

Cross Reference to Statutes: PURA §§14.002 and 56.023.

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

(a) – (e) (No change.)

(f) **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.

The following entities are exempt from paying TUSF assessments on the services that they sell to their guests or tenants but are not exempt from TUSF pass-through assessments from telecommunications providers:

(A) a hotel or motel;

(B) an owner or lessor of an office or residential building development that contracts and pays for telecommunications services for resale to guests or tenants; and

(C) a development that contracts and pays for telecommunications services for resale to guests or tenants.

- (2) (No change.)

- (3) **Basis for assessments.** Assessments will be based upon the following:

(A) **Actuals.** Effective ~~December~~January 1, ~~2017~~2007, assessments shall be made to each telecommunications provider based upon its monthly taxable

actual intrastate telecommunications services receipts reported by that telecommunications provider under Chapter 151 of the Texas Tax Code.

(B) - (D) (No change.)

(4) - (7) (No change.)

(g) - (j) (No change.)

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 30TH DAY OF JUNE 2017 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**