

PROJECT NO. 24527

**RULEMAKING REGARDING HIGH §
COST ASSISTANCE TO A §
TELECOMMUNICATIONS PROVIDER § PUBLIC UTILITY COMMISSION
THAT VOLUNTEERS TO PROVIDE §
VOICE-GRADE SERVICE IN AN § OF TEXAS
UNCERTIFICATED SERVICE AREA §
§**

**PROPOSAL FOR PUBLICATION AS APPROVED AT THE
DECEMBER 19, 2001 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes new §26.423, relating to a High Cost Universal Service Plan for Uncertificated Areas where an Eligible Telecommunications Provider (ETP) Volunteers to Provide Basic Local Telecommunications Service. The proposed new section will provide guidelines concerning universal service fund reimbursement for high cost assistance for the voluntary provision of voice-grade telecommunications service in uncertificated areas of the state, thereby enhancing the provision of telecommunications service throughout the state by providing a mechanism for Universal Service Fund support to be available for basic local telephone service in areas where the service has not otherwise been provided. Project Number 24527 is assigned to this proceeding.

John Costello, Senior Telecommunications Analyst, Telecommunications 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. Costello 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 an increase in the number of voice-grade telecommunication services provided to residential and single-line business customers in the state of Texas. There will be no adverse effect on small businesses or micro-businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Costello 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 §2001.022.

In addition to comments on the proposed new rule, the commission requests comments on the following question: "Is there a different approach other than that provided within the proposed rule which would provide incentives for a carrier to voluntarily provide service to an uncertificated area?"

The commission staff will conduct a public hearing on this rulemaking under Texas Government Code §2001.029 in the Commissioners' Hearing Room, located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Tuesday, February 12, 2002 at 9:00 a.m.

Comments on the proposed new section (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326,

within 30 days after publication. Reply comments may be submitted within 45 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rules. 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 24527.

This new section is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2002) (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 PURA §56.021 which requires the commission to adopt and enforce rules relating to the universal service fund.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and Chapter 56.

§26.423. High Cost Universal Service Plan for Uncertificated Areas where an Eligible Telecommunications Provider (ETP) Volunteers to Provide Basic Local Telecommunications Service.

- (a) **Purpose.** This section establishes the guidelines for financial assistance to ETPs that serve uncertificated areas of the state where an ETP volunteers to provide basic voice-grade telecommunications service to permanent residential and single-line business premises.
- (b) **Definitions.** The following words and terms, when used in this section, shall have the following meaning unless the context clearly indicates otherwise:
- (1) **Eligible line** — A residential line and a single-line business line as defined by §26.403 of this title (relating to Texas High Cost Universal Service Plan (THCUSP)).
 - (2) **Eligible Telecommunications provider (ETP)** — A telecommunications provider designated by the commission pursuant to §26.417 of this title (relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF)).
 - (3) **Permanent residential or business premises** — A premise as defined pursuant to §26.421 of this title (relating to Designation of Eligible Telecommunication Provider to Provide Service to Uncertificated Areas).
 - (4) **Uncertificated areas** — An area of the state that is not included within the certificated area of a holder of a certificate of convenience and necessity (CCN).

- (c) **Application.** This section applies to telecommunications providers that have been designated ETPs by the commission pursuant to §26.417 of this title.
- (d) **Service to be supported by the High Cost Universal Service Plan for uncertificated areas where an ETP volunteers to provide basic local telecommunications service.** The High Cost Universal Service Plan for uncertificated areas shall support the provision by ETPs of basic local telecommunications services as defined in §26.403(d) of this title.
- (e) **Support for uncertificated areas where an ETP volunteers to provide service.** 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)(B) of this subsection.
- (1) **Determining base support amount available to ETPs.** The monthly per-line support available for uncertificated areas shall be determined by calculating the average of the per-line support amount approved for all local telephone company exchanges of CCN holder's that are contiguous to the uncertificated area for which reimbursement is requested.
- (2) **Proceedings to determine support amount.**
- (A) Initial determination for uncertificated areas.

- (i) Upon petition by an ETP, the commission shall establish a monthly per-line support amount for an uncertificated area as identified by the ETP.
 - (ii) The review shall be accomplished in an administrative or docketed proceeding initiated by the ETP requesting support for the provision of single-line residence or business service within an uncertificated area.
 - (B) Subsequent determination of support amount.
 - (i) The commission shall subsequently review the support for uncertificated areas consistent with the review provided for under §26.403 and §26.404 of this title (relating to Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan).
 - (ii) The commission may initiate review of the support for uncertificated areas and base support amounts under this section on its own motion at any time.
- (3) **Calculating amount of support payments to individual ETPs.** After the monthly per-line 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) **Payments.** The payment to each ETP shall be computed by multiplying the per-line amount established by paragraph (1) of this subsection for a given uncertificated area by the number of eligible lines served by the ETP in such uncertificated area for the month.

(B) **Adjustment for federal USF support.** The base support amount an ETP is eligible to receive shall be decreased by the amount of federal universal service high cost support received by the ETP.

(f) **Reporting requirements.**

- (1) An ETP eligible to receive support under this section shall provide the TUSF administrator with the following information:
 - (A) A report of the total number of eligible lines served by the ETP in a designated uncertificated area to the TUSF Administrator on a monthly basis;
 - (B) The telecommunications provider's tariffed residence and single-line business rates, as of the provisioning date for service;
 - (C) The average per-line assistance for each local exchange telephone company exchange contiguous to the area in question; and
 - (D) A calculation of the base support in accordance with the requirements of this subsection and subsection (e) of this section.
- (2) Upon request by the commission, the telecommunications provider awarded support under this section shall explain the basis on which it is establishing rates under this section.
- (3) An ETP shall report any other information required by the commission and the TUSF Administrator, including any information necessary to assess contributions to and disbursements from the TUSF.

- (g) **Initial support provided pursuant to this section.** Initial payment of support under this section shall be retroactive to the latter of the date on which a telecommunications provider either:
- (1) Petitions the commission for THCUSP assistance; or
 - (2) Begins providing basic local telephone service to the residence or business location approved for support.

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

**ISSUED IN AUSTIN, TEXAS ON THE 20th DAY OF DECEMBER 2001 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**