

PROJECT NO. 24525

RULEMAKING TO IMPLEMENT HB	§	
2345, RELATING TO SPECIALIZED	§	
TELECOMMUNICATIONS	§	PUBLIC UTILITY COMMISSION
ASSISTANCE PROGRAM; AND HB 472,	§	
RELATING TO TEXAS	§	
TELEMARKETING DISCLOSURE AND	§	
PRIVACY ACT AS IT CONCERNS	§	OF TEXAS
TELEPHONE DIRECTORIES (77TH	§	
LEGISLATIVE SESSION)	§	

**ORDER ADOPTING §26.128 AND §26.415 AS AMENDED
AT THE DECEMBER 19, 2001 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts amendments to §26.128 relating to Telephone Directories and §26.415 relating to the Specialized Telecommunications Assistance Program (STAP) with no changes to the proposed text as published in the October 26, 2001 *Texas Register* (26 TexReg 8444). The amendment to §26.128 is necessary to implement the provisions of House Bill 2345, 77th Legislature (HB 2345), relating to the Specialized Telecommunications Assistance Program, and the provisions of House Bill 472, 77th Legislature (HB 472), relating to new §43.101(c) of the Texas Telemarketing Disclosure and Privacy Act as it relates to telephone directories. The amendment to §26.128 also removes references to Chapter 23 and makes other non-substantive changes. The amendment to §26.415 is necessary to implement the provisions of HB 2345 and clarifies vendor registration and reimbursement requirements and procedures for the STAP. Other amendments are non-substantive. These amendments were adopted under Project Number 24525.

A public hearing on the amendments was held at commission offices on November 29, 2001 at 9:30 a.m. Representatives from Southwestern Bell Telephone Company (SWBT) and John Staurulakis, Inc. attended the hearing, but provided no comments.

The commission received no written comments on the proposed amendments.

These amendments are adopted 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 specifically, an Act approved May 28, 2001, 77th Leg., R.S., ch. 424, §6, 2001 Tex. Gen. Laws 761, 762, which requires the commission to adopt rules, as soon as practicable after the effective date of the Act, under PURA, Chapter 56, Subchapter E, as amended by the Act, to conform the specialized telecommunications assistance program established under that subchapter to changes in law made by the Act and to adopt rules under PURA §55.203(g), as added by the Act, promptly and to make the rules apply to directories published on or after January 1, 2002; and an Act approved June 17, 2001, 77th Leg., R.S., ch. 1429, §1, 2001 Tex. Gen. Laws 4812, 4814-4815, which requires the commission to establish a Texas no-call list.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 55.203(g), and 56.156; and Texas Business and Commerce Code §43.101(c).

§26.128. Telephone Directories.

- (a) **Applicability.** The provisions of this section shall apply to all telephone directory providers to the extent outlined in this section. For purposes of this section, the term "a private for-profit publisher" shall mean a publisher, other than a telecommunications utility or its affiliate, of a telephone directory that contains residential listings and that is distributed to the public at minimal or no cost.
- (b) **Telephone directory requirements for all providers.** Any private for-profit publisher and any telecommunications utility or its affiliate that publishes a residential telephone directory shall comply with the following requirements:
- (1) A telephone directory shall contain a listing of each toll-free and local telephone number for each of the following:
 - (A) state agencies;
 - (B) state public services; and
 - (C) elected state officials who represent all or part of the geographical area for which the directory contains listings.
 - (2) The directory shall include the information required in paragraph (1) of this subsection from the most current edition of the State of Texas Telephone Directory prepared and issued by the General Services Commission of the State of Texas and those modifications to the State of Texas Telephone Directory that are available upon request from the General Services Commission of Texas.

- (3) All publishers shall contact the General Services Commission of Texas in writing to determine which issue of the State of Texas Telephone Directory is most current and to obtain the modifications referred to in paragraph (2) of this subsection. The General Services Commission shall respond within 30 days of receiving the request.
- (4) The listings required by paragraph (1) of this subsection:
 - (A) may be located at the front of the directory or, if not located at the front of the directory, shall be referenced clearly on the inside page of the cover or on the first page following the cover before the main listing of residential and business telephone numbers;
 - (B) shall be labeled "GOVERNMENT OFFICES - STATE" in 24 point type;
 - (C) shall be bordered or shaded in such a way (on the three unbound sides with a border) that will distinguish the state listings from the other listings;
 - (D) shall be included in the directory at no cost to the agency or official;
 - (E) shall be in compliance with the categorization developed by the Records Management Interagency Coordinating Council. The categorization shall be available upon request from the General Services Commission. The listings shall be arranged in two ways:
 - (i) alphabetically by subject matter of state agencies; and
 - (ii) alphabetically by agency and public service name;
 - (F) shall include the telephone number for state government information:
(512) 463-4630.

- (c) **Private for-profit publisher.** Any private for-profit publisher that publishes a residential telephone directory shall include in the directory a prominently displayed toll-free number and Internet mail address, established by the commission, through which a person may order a form to request to be placed on the Texas no-call list in order to avoid unwanted telemarketing calls.
- (d) **Additional requirement for telecommunications utilities or affiliates that publish telephone directories.**
- (1) A telecommunications utility or an affiliate of that utility that publishes a business telephone directory that is distributed to the public shall publish a listing of each toll-free and local telephone number of each elected official who represents all or part of the geographical area for which the directory contains listings.
 - (2) A telecommunications utility or an affiliate of that utility that publishes and causes to be distributed to the public a residential or business telephone directory shall prominently list in the directory the following information: "The Specialized Telecommunications Assistance Program (STAP) provides financial assistance to help Texas residents with disabilities purchase basic specialized equipment or services needed to access the telephone network. For more information, contact the Texas Commission for the Deaf and Hard of Hearing at 512-407-3250 (Voice) or 512-407-3251 (TTY) or www.tcdhh.state.tx.us. This program is open to all individuals who are residents of Texas and have a disability."

- (e) **Requirements for telecommunications utilities found to be dominant.** This subsection applies to any telecommunications utility found to be dominant as to local exchange telephone service or its affiliate that publishes a directory on behalf of such telecommunications utility.
- (1) **Annual publication.** Telephone directories shall be published annually. Except for customers who request that information be unlisted, directories shall list the names, addresses, and telephone numbers of all customers receiving local phone service, including customers of other certificated telecommunications utilities (CTUs) in the geographic area covered by that directory. Numbers of pay telephones need not be listed.
 - (2) **Distribution.** Upon issuance, a copy of each directory shall be distributed at no charge for each customer access line served by the telecommunications utility in the geographic area covered by that directory and, if requested, one extra copy per customer access line shall be provided at no charge. A telecommunications utility shall also distribute copies of directories pursuant to any agreement reached with another CTU. A copy of each directory shall be furnished to the commission.
 - (3) **Front cover requirements.** The name of the telecommunications utility, an indication of the area included in the directory, and the month and the year of issue shall appear on the front cover. Information pertaining to emergency calls such as for the police and fire departments shall appear conspicuously in the front part of the directory pages.

- (4) **Required instructions.** The directory shall contain instructions concerning:

 - (A) placing local and long distance calls on the network of the telecommunications utility for which the directory is issued;
 - (B) calls to the telecommunications utility's repair and directory assistance services, and locations; and
 - (C) telephone numbers of the business offices of the telecommunications utility as may be appropriate to the area served by the directory.
- (5) **Sample long distance rates.** It shall also contain a section setting out sample long distance rates within the long distance service area, if any, on the network of the telecommunications utility for which the directory is issued, applicable at the time the directory is compiled for publication, with a clear statement that the published rates are effective as of the date of compilation.
- (6) **Customer addresses.** At the customer's option the directory shall list either the customer's street address, a post office box number, or no address. A charge can be imposed upon those customers who desire more than one address listing.
- (f) **References to other sections relating to directory notification.** The requirements of this section are in addition to the requirements referenced in paragraphs (1) through (6) of this subsection, or any other applicable section in this title. The applicability of each of the sections referenced in paragraphs (1) through (6) of this subsection is unaffected by the inclusion of the reference in this subsection.

- (1) Section 26.29 of this title (relating to Prepaid Local Telephone Service (PLTS)) concerning consumer education;
 - (2) Section 26.31 of this title (relating to Disclosures to Applicants and Customers) concerning information to customers;
 - (3) Section 26.121 of this title (relating to Privacy Issues) concerning notice of number delivery over 800, 888, and other toll-free prefixes and 900 services;
 - (4) Section 26.122 of this title (relating to Customer Proprietary Network Information) concerning notification;
 - (5) Section 26.126 of this title (relating to Telephone Solicitation) concerning responsibility of LECs;
 - (6) Section 26.130 of this title (relating to Selection of Telecommunications Utilities) concerning notice of customer rights.
- (g) **Additional requirements.** The following requirements apply to telecommunications utilities found to be dominant as to local exchange telephone service or its affiliate that publishes a directory on behalf of such telecommunications utility.
- (1) **Directory assistance.** Each telecommunications utility shall list each customer with its directory assistance within 72 hours after service connection (except those numbers excluded from listing in subsection (e)(1) of this section) in order that the directory assistance operators can provide the requested telephone numbers based on customer names and addresses.

- (2) **Non-assigned numbers.** All non-assigned telephone numbers in central offices serving more than 300 customer access lines shall be intercepted unless otherwise approved by the commission.
- (3) **Disconnected numbers.** Disconnected residence telephone numbers shall not be reassigned for 30 days and disconnected business numbers shall not be reassigned, unless requested by the customer, for 30 days or the life of the directory, whichever is longer, unless no other numbers are available to provide service to new customers.
- (4) **Incorrect listings.** If a customer's number is incorrectly listed in the directory and if the incorrect number is a working number and if the customer to whom the incorrect number is assigned requests, the number of the customer to whom the incorrect number is assigned shall be changed at no charge. If the incorrect number is not a working number and is a usable number, the customer's number shall be changed to the listed number at no charge if requested.
- (5) **Changing telephone numbers to a group of customers.** When additions or changes in plant or changes to any other CTU's operations necessitate changing telephone numbers to a group of customers, at least 30 days' written notice shall be given to all customers so affected even though the addition or changes may be coincident with a directory issue.

§26.415. Specialized Telecommunications Assistance Program (STAP).

- (a) **Purpose.** The provisions of this section are intended to establish procedures for a specialized telecommunications assistance program and for reimbursement to vendors and service providers who submit vouchers issued under the program.
- (b) **Program responsibilities.**
- (1) **Texas Commission for the Deaf and Hard of Hearing (TCDHH) responsibilities.** TCDHH is responsible for:
- (A) Adopting rules and procedures regarding the issuance of STAP vouchers to eligible individuals;
 - (B) Establishing a database containing sufficient information to enable the commission to verify the issuance of a particular STAP voucher; and
 - (C) Promoting the STAP program by means or efforts that provide contact information for persons interested in the voucher program.
- (2) **Commission responsibilities.** The commission is responsible for:
- (A) Adopting rules and procedures regarding the reimbursement to vendors for properly redeemed STAP vouchers;
 - (B) Administering the TUSF to ensure adequate funding of the specialized telecommunications assistance program; and

- (C) Appointing and providing administrative support for the Relay Texas Advisory Committee (RTAC), in accordance with the Public Utility Regulatory Act (PURA), §56.110 and §56.112.

(c) **Program administration.**

(1) **Vendor and service provider registration.**

- (A) To facilitate the timely reimbursement of STAP vouchers, the TUSF administrator may specify that a vendor or service provider who accepts STAP vouchers shall register with the administrator by providing their name, contact person, address, telephone number, facsimile number (if available), and information sufficient to permit the administrator to reimburse the vendor or service provider by direct deposit rather than by check.
- (B) The commission will notify the TUSF administrator and instruct it not to accept registration information from a vendor or service provider if the vendor or service provider is suspended or debarred from doing business with the State of Texas, as determined by the Texas Building and Procurement Commission (formally General Services Commission), or with the federal government. If a vendor or service provider is currently registered under the STAP program and is barred from doing business with the State of Texas or the federal government, the commission shall notify the vendor or service provider, by certified mail return receipt

requested, and the TUSF administrator that the vendor or service provider is no longer eligible to receive voucher reimbursements under this program.

- (2) **Vendor or service provider reimbursement.** A vendor or service provider who exchanges a STAP voucher for the purchase of approved equipment or services in accordance with the terms of the specialized telecommunications assistance program specified by TCDHH shall be eligible for reimbursement of the lesser of the face value of the STAP voucher or the actual standard retail price of the equipment or service as charged to all customers of that vendor for the same equipment.

(A) TUSF disbursements shall be made only upon receipt from the vendor or service provider of:

(i) The vendor's copy of the TCDHH voucher signed by the vendor, or an authorized representative, in the space provided thereon. By signing the voucher, the vendor is certifying that the device or service has been delivered to the voucher recipient, and that the device was new when delivered and was not used or re-conditioned.

(ii) The vendor's proof of delivery of the device or service to the voucher recipient. For proof of delivery, the vendor should seek the voucher recipient's signature on the voucher in the space provided thereon. If the vendor is unable to obtain the recipient's

signature on the voucher, other evidence of delivery, such as a postal or private delivery service receipt, may be used for proof of delivery to the recipient. However, evidence of delivery to the voucher recipient must include the signature of the voucher recipient or the signature of the recipient's parent or guardian. The signature of an authorized agent will not suffice as a substitute for the signature of the recipient or the recipient's parent or guardian.

- (iii) A receipt that contains a description of the device or service exchanged for the STAP voucher and the price charged to the customer for the device or service exchanged. The price charged to the customer for the device or service exchanged for the voucher cannot exceed the standard retail price charged by that vendor to all of its customers who purchase the same equipment or service.
- (B) TUSF disbursements may also be subject to such other limitations or conditions as determined by the commission to be just and reasonable, including investigation of whether the presentation of a STAP voucher represents a valid transaction for equipment or service under the STAP.
- (C) If a dispute arises as to whether the submitted documentation is sufficient to create a presumption of a valid STAP sales transaction, the commission will be the sole judge of the sufficiency of the documentation.
- (D) The TUSF administrator shall ensure that reimbursement to vendors for STAP vouchers shall be issued within 45 days after the STAP voucher and

other documentation required under subparagraph (A) of this paragraph is received by the TUSF administrator.

- (E) The commission may delay payment of a voucher to a distributor of devices or a service provider if there is a dispute regarding the amount or propriety of the payment or whether the device or service is appropriate or adequate to meet the needs of the person to whom the TCDHH issued the voucher until the dispute is resolved.
- (F) The commission may provide that payment of the voucher is conditioned on the return of the payment if the device is returned to the distributor within 30 days of receipt or if the service is not used by the person to whom the voucher was issued within 30 days of its availability. The commission may provide an alternative dispute resolution process for resolving a dispute regarding the equipment or service provided.

This agency hereby certifies that the rules, as adopted, have 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 §26.128 relating to Telephone Directories and §26.415 relating to the Specialized Telecommunications Assistance Program (STAP) are hereby adopted with no changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 20th DAY OF DECEMBER 2001.

PUBLIC UTILITY COMMISSION OF TEXAS

Chairman Max Yzaguirre

Commissioner Brett A. Perlman

Commissioner Rebecca Klein