

PROJECT NO. 34864

PUC RULEMAKING PROCEEDING	§	PUBLIC UTILITY COMMISSION
TO AMEND PUC SUBST. R. §26.415	§	
RELATING TO THE SPECIALIZED	§	OF TEXAS
TELECOMMUNICATIONS	§	
ASSISTANCE PROGRAM (STAP)	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §26.415
AS APPROVED AT THE APRIL 1, 2010 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §26.415, relating to the Specialized Telecommunications Assistance Program (STAP). The amendment will clarify the responsibilities of the commission, vendors, and service providers in the STAP and provide reimbursement guidelines. Project Number 34864 is assigned to this proceeding.

Eileen Alter, Relay Texas Administrator, Customer Protection Division, has determined that for each year of the first five-year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Ms. Alter has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be better management of the STAP by (1) requiring vendors to maintain their commission registration, stay in good standing with the State of Texas, and stay better informed regarding STAP program updates, and (2) providing more specific guidelines for vendor reimbursement. The amendment should result in fewer vendor errors and improved STAP recipient service and satisfaction. It should also

ensure that STAP recipients pay a similar price for a device or service as the general public for the same device.

There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendment. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Ms. Alter has also determined that for each year of the first five years the amendment 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 (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 on June 22, 2010. The request for a public hearing must be received within 30 days after publication.

Comments on the amendment may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. Sixteen copies of comments are required to be filed pursuant to §22.71(c) of this title. Initial comments may be filed by May 17, 2010, (31 days after publication), and reply comments may be submitted

by May 31, 2010 (45 days after publication). Comments should be organized in a manner consistent with the organization of the amended rule. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the amendment. The commission will consider the costs and benefits in deciding whether to adopt the amendment. All comments should refer to Project Number 34864.

The amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (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 §§56.153(c) and 56.154, which provides the commission with certain authority concerning STAP.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 56.153(c), and 56.154.

§26.415. Specialized Telecommunications Assistance Program (STAP).

(a) **No change.**

(b) **Program responsibilities.**

(1) **Texas Department of Assistive and Rehabilitative Services, Division for Rehabilitation Services, Office for Deaf and Hard of Hearing Services (DHHS)~~Commission for the Deaf and Hard of Hearing (TCDHH)~~ responsibilities.** DHHS~~TCDHH~~ is responsible for:

(A) - (C) (No change.)

(2) **Commission responsibilities.** The commission is responsible for:

(A) (No change.);

(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 if funding is available; and~~;~~

(D) Resolving disputes regarding the amount or propriety of the payment for a device or service or whether the device or service is appropriate or adequate to meet the need of the person to whom the DHHS issued a voucher.

(3) Vendor and service provider responsibilities. Vendors and service providers are responsible for adhering to the commission's STAP administration requirements as provided in subsection (c) of this section and with the

commission's STAP procedures as posted and periodically updated on the commission's web site (www.puc.state.tx.us).

(c) **Program administration.**

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

A vendor or service provider who accepts STAP vouchers shall register with the commission and agree to comply with this section and the commission's STAP procedures as posted and periodically updated on the commission's web site. A vendor's or service provider's STAP registration shall include its (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 commission's STAP administrator to reimburse the vendor or service provider by direct deposit rather than by check. If a vendor's or service provider's registration information is not complete or accurate, the STAP administrator shall notify the vendor or service provider, by certified mail, and the administrator of the Texas Universal Service Fund (TUSF) that the vendor or service provider is no longer eligible to receive voucher reimbursements under this program. The commission is not responsible if the vendor or service provider has not provided a correct mailing address for receipt of this notice. Reimbursements for vouchers that are otherwise eligible will be resumed after the vendor or service provider has completed and corrected its registration.

- (2) Vendor and service provider in good standing.** ~~(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~~ **A vendor or service provider that** is suspended or ~~barred~~ **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~~ **is not eligible to participate in the this program.** If a vendor or service provider is registered under the STAP and ~~becomes~~ **is** barred from doing business with the State of Texas or the federal government, the **STAP administrator** ~~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 **the STAP this program.** **The commission is not responsible if the vendor or service provider has not provided a correct mailing address for receipt of this notice.** **Reimbursements for vouchers that are otherwise eligible will be resumed if the vendor or service provider is returned to good standing with the State of Texas and federal government.**
- (3) Vendor or service provider adherence to commission STAP procedures.** **Any vendor or service provider not in compliance with the commission's STAP procedures as posted and periodically updated on the commission's web site, within 30 days from the date the commission's procedures or changes thereto are posted, is not eligible to receive voucher reimbursements under the STAP. The STAP administrator may permanently bar, or suspend for a specified period of**

time, any vendor or service provider that the STAP administrator identifies as having billed the STAP for devices or services not provided to eligible customers.

~~(4)(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 requirements of the STAP may request reimbursement by the commission. If all reimbursement requirements are met, the STAP administrator shall approve reimburse to the vendor or service provider in an amount that is the lesser of: the face value of the STAP voucher, the actual retail price of the equipment or service as charged by the vendor or service provider to all STAP and non-STAP customers for the same equipment or service, or 125% of the manufacturer's suggested retail price for the device actually provided to the STAP customer as posted on the manufacturer's web site or provided by the manufacturer upon request~~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 ~~DHHS~~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 ~~vendor~~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 ~~DHHS~~TCDDH issued the voucher until the dispute is resolved.
- (F) The commission shall process a voucher for payment no sooner than ten working days from the date the STAP customer received the device or service.
- (G)~~(F)~~ The vendor or service provider shall refund a reimbursement~~The commission may provide that payment of the voucher is conditioned on the return of the payment~~ if the device is returned to the ~~vendor~~distributor within 30 days of receipt or if the service is not used by the STAP customer~~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.~~

- (H) A STAP vendor or service provider will not be reimbursed for a voucher that is submitted to the STAP administrator more than six months after the voucher's expiration date.
- (I) 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 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 1st DAY OF APRIL 2010 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**