

PROJECT NO. 24523

**RULEMAKING TO IMPLEMENT HB § PUBLIC UTILITY COMMISSION
2156, 77TH LEG., RELATING TO §
ELIGIBILITY PROCESS FOR §
CERTAIN UTILITY CUSTOMER §
DISCOUNTS; REPEAL OF §26.413, §
TEL-ASSISTANCE SERVICE § OF TEXAS**

**PROPOSAL FOR PUBLICATION AS APPROVED AT THE
OCTOBER 31-NOVEMBER 1, 2001 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §26.401 relating to Texas Universal Service Fund (TUSF), the repeal of §26.413 relating to Tel-Assistance Service, and an amendment to §26.417 relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF). The repeal of §26.413 is necessary as a result of House Bill 2156, 77th Legislative Session (HB 2156), that eliminated the Tel-Assistance Program effective September 1, 2001. HB 2156 required telecommunications carriers to convert all Tel-Assistance customers to Lifeline Service as of September 1, 2001; therefore §26.413 is no longer necessary. The proposed amendments to §26.401 and §26.417 remove references to §26.413, Tel-Assistance, and propose other non-substantive changes. Project Number 24523 is assigned to this proceeding.

Janis Ervin, Senior Utilities Analyst, Telecommunications Division, has determined that for each year of the first five-year period the proposed sections and repeal are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Ervin has determined that for each year of the first five years the proposed sections and repeal are in effect the public benefit anticipated as a result of enforcing the sections as amended and the repeal will be the elimination of a rule no longer applicable to telecommunications carriers and the removal of references to the repealed section. There will be no effect on small businesses or micro-businesses as a result of enforcing these amended sections and repeal. There is no anticipated economic cost to persons who are required to comply with the amended sections and repeal as proposed.

Ms. Ervin has also determined that for each year of the first five years the proposed sections and repeal 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.

Comments on the proposed amendments and repeal (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. 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 these sections and the repeal. All comments should refer to Project Number 24523.

The amendments and repeal 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; and specifically, 2001 Texas Session Laws, HB 2156 (Vernon's), 77th Legislature, Regular Session, Chapter 1451, §4, that discontinues the Tel-Assistance Program.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 55.015, and 56.021.

§26.401. Texas Universal Service Fund (TUSF).

- (a) **Purpose.** The purpose of the Texas Universal Service Fund (TUSF) is to implement a competitively neutral mechanism that enables all residents of the state to obtain the basic telecommunications services needed to communicate with other residents, businesses, and governmental entities. Because targeted financial support may be needed in order to provide and price basic telecommunications services in a manner to allow accessibility by consumers, the TUSF will assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas. In addition, the TUSF will reimburse qualifying entities for revenues lost as a result of providing Lifeline ~~and Tel assistance~~ services to qualifying low-income consumers under the Public Utility Regulatory Act (PURA); reimburse telecommunications carriers providing statewide telecommunications relay access service and qualified vendors providing specialized telecommunications devices and services for the disabled; and reimburse the Texas Department of Human Services, the Texas Department of Housing and Community Affairs, the Texas Department for the Deaf and Hard of Hearing, the TUSF administrator, and the Public Utility Commission for costs incurred in implementing the provisions of PURA Chapter 56 (relating to Telecommunications Assistance and Universal Service Fund).

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

(1) - (6) (No change.)

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

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

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

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

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

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

§26.413. Tel-Assistance Service. (REPEAL)

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

(a) - (b) (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), 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) - (D) (No change.)

(E) the telecommunications provider offers services in compliance with §26.412 of this title (relating to Lifeline Service and Link Up Service Programs) ~~and §26.413 of this title (relating to Tel Assistance Service);~~ and

(F) (No change.)

(2) (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) Notice of application. Notice shall be published in the *Texas Register*.

The presiding officer may require additional notice. Unless otherwise required by the presiding officer or by law, the notice shall include at a minimum a description of the service area for which the applicant seeks designation, the proposed effective date of the designation, and the following language: "Persons who wish to comment on this application should notify the Public Utility Commission by (specified date, ten days before the proposed effective date). Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the Public Utility Commission's ~~Office of~~ Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136, or use Relay Texas (800) 735-2989 to reach the commission's toll free number (888) 782-8477."

(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) - (V) (No change.)

(VI) show that the applicant offers Lifeline; and Link Up;
and Tel Assistance services in compliance with
§26.412 ~~and §26.413~~ of this title;

(VII) - (XI) (No change.)

(ii) (No change.)

(2) (No change.)

(g) **Relinquishment of ETP designation.** A telecommunications provider may seek to relinquish its ETP designation.

(1) - (2) (No change.)

(3) **Relinquishment for non-compliance.** The TUSF administrator shall notify the commission when the TUSF administrator is aware that an ETP is not in compliance with the requirements of subsection (c) of this section.

(A) (No change.)

(B) The commission may revoke a portion of the ETP designation of any telecommunications provider determined not to be in compliance with the quality of service standards defined in §§26.52, 26.53, and 26.54

of this title ~~(relating to Emergency Operations), §26.53 of this title~~
~~(relating to Inspections and Tests), and §26.54 of this title (relating to~~
~~Service Objectives and Performance Benchmarks)~~ in that portion of its
ETP service area.

(h) (No change.)

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 5th DAY OF NOVEMBER 2001 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**