



Control Number: 41634



Item Number: 8

Addendum StartPage: 0

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Public Utility Commission of Texas

TO: TRANSTELCO, Inc.

Legal Division
Competitive Markets Division - Wholesale

FROM: Irene Montelongo
Director, Docket Management

RE: Docket No. 41634 – *Application of TRANSTELCO, Inc. for Waiver to Apply Safe-Harbor Percentage to Calculate Texas Universal Service Fund (TUSF) Assessment Pursuant to P.U.C. SUBST. R. 26.420(f)*

NOTICE OF APPROVAL

This Notice addresses the application of TRANSTELCO, Inc. (TRANSTELCO or Applicant) for a waiver from the requirements of P.U.C. SUBST. R. 26.420(f)(3)(A). TRANSTELCO seeks a permanent waiver from the requirement to use actual intrastate telecommunications receipts in calculating the Texas Universal Service Fund (TUSF) assessment. Alternatively, TRANSTELCO seeks approval to apply a Public Utility Commission of Texas (Commission)-ordered safe-harbor percentage to calculate the TUSF assessment. Commission Staff recommended approval of the application. The application is approved.

The following fact statements and legal conclusions are approved:

Fact Statements

Procedural History

1. On July 2, 2013, TRANSTELCO filed an application for a permanent waiver to apply the Commission ordered safe-harbor methodology to calculate intrastate telecommunications service receipts pursuant to P.U.C. SUBST. R. 26.420(f)(3)(B).

2. On July 8, 2013, Order No. 1 required comments on sufficiency of the application, proposed notice, and proposed procedural schedule.
3. On July 18, 2013, Order No. 2 established a procedural schedule and found TRANSTELCO's application and notice sufficient.
4. On August 16, 2013, Commission Staff concluded that TRANSTELCO had satisfied the requirements of P.U.C. SUBST. R. 26.420(f)(3)(B) and recommended approval of the application.

Notice

5. On July 19, 2013, notice of the application was published in the *Texas Register*.
6. No protests, motions to intervene, or requests for hearing were filed.

Waiver Request

7. TRANSTELCO is certificated as a competitive local exchange carrier (CLEC).
8. TRANSTELCO provides commercial Voice over Internet Protocol (VoIP) services and is unable to distinguish between interstate and intrastate revenues because TRANSTELCO charges a single bundled price for usage.
9. TRANSTELCO requests a permanent waiver to use the Commission-ordered safe-harbor percentage rate under P.U.C. SUBST. R. 26.420(f)(3)(B)(iii), which is the inverse of the Federal Communication Commission's (FCC) interstate safe-harbor percentage.
10. The inverse percentage for VoIP providers that will be used to calculate TRANSTELCO's intrastate services is 35.1%.
11. Pursuant to P.U.C. SUBST. R. 26.420(f)(3)(B), telecommunication providers that cannot calculate their monthly taxable actual intrastate telecommunication services received may file waiver requests to use the Commission-ordered safe-harbor percentage.
12. TRANSTELCO cannot calculate monthly intrastate revenues based on actual intrastate telecommunications services receipts as required by P.U.C. SUBST. R. 26.420(f)(3).

13. TRANSTELCO's application complies with the requirements of P.U.C. SUBST. R. 26.420(f)(3)(B). Pursuant to P.U.C. SUBST. R. 26.420(f)(3)(B)(ii), TRANSTELCO's application and attached affidavit of Rodrigo Fernandez satisfies the requirements for a permanent waiver.

Informal Disposition

14. No protests, motions to intervene, or requests for hearing have been filed. No issues of fact or law are disputed by any party.

Legal Conclusions

1. TRANSTELCO is a telecommunications provider as defined in the Public Utility Regulatory Act § 51.002.¹
2. Under P.U.C. SUBST. R. 26.420(f)(3)(B), the Commission may, for good cause, grant TRANSTELCO's request to waive the requirements of P.U.C. SUBST. R. 26.420(f)(3)(A).
3. Good cause exists to grant TRANSTELCO's request for a permanent waiver to apply the Commission-ordered safe-harbor percentage. The safe-harbor percentage that TRANSTELCO will use is 35.1% for intrastate services, the inverse of the FCC's interstate safe-harbor percentage.
4. The application may be approved without a hearing pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. 2001.001-.902 (Vernon 2008 & Supp. 2012) (APA).
5. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

Ordering Paragraphs

1. TRANSTELCO's request for a permanent waiver from the requirements of P.U.C. SUBST. R. 26.420(f)(A) is approved.

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2012) (PURA).

2. Pursuant to P.U.C. SUBST. R. 26.420(f)(3)(B)(iii), the Commission-ordered safe-harbor percentage that TRANSTELCO shall use is 35.1% for intrastate services, the inverse of the FCC's interstate safe-harbor percentage.
3. All other motions, requests for entry of specific facts and legal conclusions, and any other requests for general or specific relief, if not expressly granted herein are denied.

SIGNED AT AUSTIN, TEXAS the 22nd day of August 2013.

PUBLIC UTILITY COMMISSION OF TEXAS



IRENE MONTELONGO
DIRECTOR, DOCKET MANAGEMENT

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