

the small and rural ILEC ETP base support amount and applying the annual reductions as described in this subsection.

(1) **Determining base support amount available to ETPs.** The initial per-line monthly base support amount for a small or rural ILEC ETP ~~must~~shall be the per-line monthly support amount for each small or rural ILEC ETP study area as specified in Docket Number 18516, annualized by using the small or rural ILEC ETP access line count as of January 1, 2012. The initial per-line monthly base support amount ~~must~~shall be reduced as described in paragraph (3) of this subsection.

(2) **Determination of the reasonable rate.**

(A) The reasonable rate for basic local telecommunications service ~~must~~shall be determined by the commission in a contested case proceeding. An increase to an existing rate ~~must~~shall not in any one year exceed an amount to be determined by the commission in the contested case proceeding.

(B) The length of the transition period applicable to the reduction in support calculated under paragraph (3) of this subsection ~~must~~shall be determined in the contested case proceeding.

(3) **Annual reductions to the SRILEC USPS~~Small and Rural ILEC Universal Service Plan per line support~~.** As part of the contested case proceeding referenced in paragraph (2) of this subsection, for each small or rural ILEC ETP, the commission ~~will~~shall calculate the amount of additional revenue, using the basic telecommunications service rate (the tariffed local service rate plus any additional charges for tone dialing services, mandatory expanded local calling

service and mandatory extended area service) and the access line count as of September 1, 2013, would result if the small and rural ILEC ETP were to charge the reasonable rate for basic local telecommunications service to all residential customers. Without regard to whether a small or rural ILEC ETP increases its rates for basic local telecommunications service to the reasonable rate, the small or rural ILEC ETP's annual base support amount for each study area ~~will~~shall be reduced on January 1 of each year for four consecutive years, with the first reduction occurring on January 1, 2014. The small or rural ILEC ETP's annual base support amount ~~must~~shall be reduced by 25% of the additional revenue calculated in accordance with~~pursuant to~~ this paragraph in each year of the transition period, unless specified otherwise in accordance with subparagraph~~pursuant to paragraph~~ (2)(B) of this subsection. This reduction ~~must~~shall be accomplished by reducing support for each study area proportionally. An ILEC ETP may, in its sole discretion, accelerate its SRILEC USP reduction in any year by as much as 10% and offset such reductions with a corresponding local rate increase in order to produce rounded rates.

(f) ~~**SRILEC USPs**~~**Small and Rural ILEC Universal Service Plan support payments to ETPs.** The TUSF administrator ~~must~~shall disburse monthly support payments to ETPs qualified to receive support in accordance with~~pursuant to~~ this section.

(1) **Payments to small or rural ILEC ETPs.** The payment to each small or rural ILEC ETP ~~must~~shall be computed by multiplying the per-line amount established

in subsection (e) of this section by the number of eligible lines served by the small or rural ILEC ETP for the month.

(2) **Payments to ETPs other than small or rural ILECs.** The payment to each ETP other than a small or rural ILEC ~~must~~shall be computed by multiplying the per-line amount established in subsection (e) of this section for a given small or rural ILEC study area by the number of eligible lines served by the ETP in such study area for the month.

(g) **Support Reduction.** Subject to the provisions of §26.405(f)(3) of this title (relating to Financial Need for Continued Support), the commission ~~will~~shall adjust the support to be made available from the SRILEC USP according to the following criteria.

(1) For each ILEC ETP that is electing under PURA, Chapter 58 or 59 or a cooperative that served greater than 31,000 access lines in this state on September 1, ~~2022~~2013, or a company or cooperative that is a successor to such an ILEC, the monthly per-line support that the ILEC ETP is eligible to receive for each exchange on December 31, ~~2024~~2017 from the SRILEC USP is reduced:

(A) on January 1, ~~2025~~2018, to 75 percent of the level of support the ILEC ETP is eligible to receive on December 31, ~~2024~~2017;

(B) on January 1, ~~2026~~2019, to 50 percent of the level of support the ILEC ETP is eligible to receive on December 31, ~~2024~~2017; and

(C) on January 1, ~~2027~~2020, to 25 percent of the level of support the ILEC ETP is eligible to receive on December 31, ~~2024~~2017; ~~or~~

(D) on January 1, 2028, to zero percent of the level of support the ILEC ETP is eligible to receive on December 31, 2024.

(2) An ILEC ETP subject to this subsection may file a petition to show financial need for continued support, in accordance with~~pursuant to~~ §26.405(f)(1) of this title, on or before January 1, 2028~~2020~~.

(h) **Reporting requirements.** An ETP eligible to receive support under this section must~~shall~~ report information as required by the commission and the TUSF administrator.

(1) **Monthly reporting requirement.** An ETP must~~shall~~ report the following to the TUSF administrator on a monthly basis:

(A)-(B)(No change.)

(2) **Quarterly filing requirements.** An ETP must~~shall~~ file quarterly reports with the commission showing actual SRILEC USP receipts by study area.

(A) Reports must~~shall~~ be filed electronically in the project number assigned by the commission's central records office no later than 3:00 p.m. on the 30th calendar day after the end of the calendar quarter reporting period.

(B) Each ETP's reports must~~shall~~ be filed on an individual company basis; reports that aggregate the disbursements received by two or more ETPs will not be accepted as complying with the requirements of this paragraph.

(C) All reports filed in accordance with~~pursuant to~~ paragraph (3) of this subsection must~~shall~~ be publicly available.

(3) **Annual reporting requirements.** An ETP must~~shall~~ report annually to the TUSF administrator that it is qualified to participate in the SRILEC USPS~~Small and Rural ILEC Universal Service Plan~~.

- 1 (4) **Other reporting requirements.** An ETP ~~must~~^{shall} report any other information
2 that is required by the commission or the TUSF administrator, including any
3 information necessary to assess contributions and disbursements from the TUSF.
4

1 **§26.405. Financial Need for Continued Support.**

2
3 (a)-(b) (No change.)

4 (c) **Definitions.** The following words and terms when used in this section ~~shall~~ have the
5 following meaning unless the context clearly indicates otherwise:

6 (1) **Business line** -- The telecommunications facilities providing the communications
7 channel that serves a single-line business customer's service address. For the
8 purpose of this definition, a single-line business line is one to which multi-line
9 hunting, trunking, or other special capabilities do not apply. For a line served by
10 an ILEC, a business line is a line served in accordance with~~pursuant to~~ the ILEC's
11 business service tariff or a package that includes such a tariffed service. For a line
12 served by an ILEC in accordance with~~pursuant to~~ a customer specific contract or
13 that is otherwise not served in accordance with~~pursuant to~~ a tariff, to qualify as a
14 business line, the service must be provided in accordance with~~pursuant to~~ a
15 customer application, subscriber agreement, or contract entered into by a public or
16 private organization of any character, or a representative or agent of such entity,
17 irrespective of the person or entity in actual possession of the telephone device. For
18 a line that is served by an ETP other than an ILEC, to qualify as a business line, the
19 service must be provided in accordance with~~pursuant to~~ a customer application,
20 subscriber agreement, or contract entered into by a public or private organization
21 of any character, or a representative or agent of such entity, irrespective of the
22 person or entity in actual possession of the telephone device.

23 (2) **Eligible line** -- A residential line or a single-line business line over which an ETP
24 provides the service supported by the THCUSP or SRILEC USP through its own

1 facilities, purchase of unbundled network elements (UNEs), or a combination of its
2 own facilities and purchase of UNEs. An eligible line may be a business line or a
3 residential line but ~~cannot~~shall not be both.

4 (3) **Eligible telecommunications provider (ETP)** -- A telecommunications provider
5 designated by the commission ~~in accordance with~~pursuant to §26.417 of this title
6 (relating to Designation as Eligible Telecommunications Providers to Receive
7 Texas Universal Service Funds (TUSF)).

8 (4) (No change.)

9 (5) **Residential line** -- The telecommunications facilities providing the
10 communications channel that serves a residential customer's service address. For
11 the purpose of this definition, a residential line is one to which multi-line hunting,
12 trunking, or other special capabilities do not apply. A line that qualifies as a
13 business line ~~does~~shall not qualify as a residential line.

14 (6) **Service Address** -- For the purposes of this section, a business or residential
15 customer's service address is defined using the following criteria:

16 (A) A service address is the unique physical street address, including any suite
17 or unit number, where a line is provided to a customer, except as provided
18 in clauses (i)-(ii) and subparagraph (B) of this paragraph.

19 (i) If no unique physical street address is available, a physical 911
20 address ~~must~~shall be used.

21 (ii) If no unique physical street address and no physical 911 address are
22 available, the business or residential customer's service address
23 ~~must~~shall be an area of land under common operation or use as

defined by a deed, state permit, lease name, or licensed or registered field of operation, which ~~must~~shall be described by an ETP using GPS coordinates. Multiple buildings within a single area of land under common operation or use ~~must~~shall not qualify as separate service addresses, even if the GPS coordinates for each building are different.

(B) (No change.)

(d) **Determination of financial need.**

(1) **Criteria to determine financial need.** For each exchange that is served by an ILEC ETP filing a petition ~~in accordance with paragraph~~pursuant to subsection (f)(1) of this section, the commission ~~will~~shall determine whether an ILEC ETP has a financial need for continued support. An ILEC ETP has a financial need for continued support within an exchange if the exchange does not contain an unsubsidized wireline voice provider competitor as set forth in paragraph (2) of this subsection.

(2) **Establishing the existence of an unsubsidized wireline voice provider competitor.** For the purposes of this section, an exchange contains an unsubsidized wireline voice provider competitor if the percentage of square miles served by an unsubsidized wireline voice provider competitor exceeds 75% of the square miles within the exchange. The commission ~~will~~shall determine whether an exchange contains an unsubsidized wireline voice provider competitor using the following criteria.

(A) For the purposes of this section, an entity is an unsubsidized wireline voice provider competitor within an exchange if it:

(i) does not receive THCUSP support, SRILEC USP support, Federal Communications Commission (FCC) Connect America Fund (CAF) support or successor federal programs, or FCC Legacy High Cost support for service provided within that exchange; and

(ii) (No change.)

(B) Using ~~Version 7 of the~~ current version of the National Broadband Map, the commission ~~will~~shall determine the census blocks served by an unsubsidized wireline voice provider competitor within a specific exchange and the total number of square miles represented by those census blocks using the following criteria.

(i) The number of square miles served by an unsubsidized wireline voice provider competitor within an exchange ~~must~~shall be equal to the total square mileage covered by census blocks in the exchange in which an unsubsidized wireline voice provider competitor offers service to any customer or customers.

(ii) The commission ~~will~~shall determine the percentage of square miles served by an unsubsidized wireline voice provider competitor within an exchange by dividing the number of square miles served by an unsubsidized wireline voice provider competitor within the exchange by the number of square miles within the exchange.

(C) The data provided by the FCC's Broadband Data Collection~~National Broadband Map~~ creates a rebuttable presumption regarding the presence of an unsubsidized wireline voice provider competitor within a specific census block. However, nothing in this rule is intended to preclude a party from providing evidence as to the accuracy of individual census block data within the FCC's Broadband Data Collection~~National Broadband Map~~ with regard to whether an unsubsidized wireline voice provider competitor offers service within a particular census block.

(3) Periodic review of criteria to demonstrate financial need for continued support. Beginning September 1, 2024, and every four years thereafter, the commission will review and may adjust the standards and criteria to demonstrate financial need for continued support under this subsection.

(e) **Criteria for determining amount of continued support.** In a proceeding conducted in accordance with~~pursuant to~~ subsection (f) of this section, the commission will~~shall~~ set new monthly per-line support amounts for each exchange served by a petitioning ILEC ETP. The new monthly per-line support amounts must~~shall~~ be effective beginning with the first disbursement following a commission order entered in accordance with paragraph~~pursuant to subsection~~ (f)(2) of this section, except that the new amounts must~~they shall~~ not be effective earlier than January 1, 2024~~2017~~ for an exchange with service supported by the THCUSP or earlier than January 1, 2025~~2018~~ for an exchange with service supported by the SRILEC USP.

(1) Exchanges in which the ILEC ETP does not have a financial need for continued support.

(A) For each exchange that is served by an ILEC ETP that has filed a petition in accordance with paragraph ~~pursuant to subsection (f)(1)~~ of this section and for which the commission has not determined that the ILEC ETP has a financial need for continued support, the commission ~~will~~ shall reduce the monthly per-line support amount to zero.

(B) For each exchange that is served by an ILEC ETP that has filed a petition in accordance with paragraph ~~pursuant to subsection (f)(1)~~ of this section and which is not included in the petition, the commission ~~will~~ shall reduce the monthly per-line support amount to zero.

(2) **Exchanges in which the ILEC ETP has a financial need for continued support.**

For each exchange that is served by an ILEC ETP that has filed a petition in accordance with paragraph ~~pursuant to subsection (f)(1)~~ of this section and for which the commission has determined the ILEC ETP has a financial need for continued support, the commission ~~will~~ shall set a monthly per-line support amount according to the following criteria.

(A) The initial monthly per-line support amounts for each exchange ~~must~~ shall be equal to:

(i) the amount that the ILEC ETP was eligible to receive on December 31, ~~2023~~ 2016 for an ILEC ETP that receives support from the THCUSP;

(ii) the amount that the ILEC ETP was eligible to receive on December 31, ~~2024~~ 2017 for an ILEC ETP that receives support from the

SRILEC USP and that has not filed a request in accordance
with~~pursuant to~~ subsection (g) of this section; or

(iii) the new monthly per-line support amounts calculated in accordance
with~~pursuant to~~ subsection (g) of this section for an ILEC ETP that
has filed a request in accordance with~~pursuant to~~ subsection (g) of
this section.

(B) Initial monthly per-line support amounts for each exchange must~~shall~~ be
reduced by the extent to which the disbursements received by an ILEC ETP
from the THCUSP or SRILEC USP in the twelve month period ending with
the most recently completed calendar quarter prior to the filing of a petition
in accordance with paragraph~~pursuant to subsection~~ (f)(1) of this section are
greater than 80% of the total amount of expenses reflected in the summary
of expenses filed in accordance with subparagraph~~pursuant to subsection~~
(f)(1)(C) of this section. In establishing any reductions to the initial monthly
per-line support amounts, the commission may consider any appropriate
factor, including the residential line density per square mile of any affected
exchanges.

(C) For each exchange with service supported by the THCUSP, monthly per-
line support must~~shall~~ not exceed:

(i) the monthly per-line support that the ILEC ETP is~~was~~ eligible to
receive on December 31, 2023~~2016~~, if the petition is~~was~~ filed before
January 1, 2024~~2016~~;

(ii) 75 percent of the monthly per-line support that the ILEC ETP ~~is~~was eligible to receive on December 31, ~~2023~~2016, if the petition ~~is~~was filed on or after January 1, ~~2024~~2016, and before January 1, ~~2025~~2017;

(iii) 50 percent of the monthly per-line support the ILEC ETP ~~is~~was eligible to receive on December 31, ~~2023~~2016, if the petition ~~is~~was filed on or after January 1, ~~2025~~2017, and before January 1, ~~2026~~2018; or

(iv) 25 percent of the monthly per-line support that the ILEC ETP ~~is~~was eligible to receive on December 31, ~~2023~~2016, if the petition ~~is~~was filed on or after January 1, ~~2026~~2018, and before January 1, ~~2027~~2019; or

(v) zero percent of the monthly per-line support that the ILEC ETP is eligible to receive on December 31, 2023, if the petition is filed on or after January 1, 2027, and before January 1, 2028.

(D) For each exchange with service supported by the SRILEC USP, monthly per-line support ~~must~~~~shall~~ not exceed:

(i) the monthly per-line support that the ILEC ETP ~~is~~was eligible to receive on December 31, ~~2024~~2017, if the petition ~~is~~was filed before January 1, ~~2025~~2017;

(ii) 75 percent of the monthly per-line support that the ILEC ETP ~~is~~was eligible to receive on December 31, ~~2024~~2017, if the petition ~~is~~was

1 filed on or after January 1, ~~2025~~2017, and before January 1,
2 2018~~2026~~;

3 (iii) 50 percent of the monthly per-line support the ILEC ETP ~~is~~was
4 eligible to receive on December 31, ~~2024~~2017, if the petition ~~is~~was
5 filed on or after January 1, ~~2026~~2018, and before January 1,
6 ~~2027~~2019; ~~or~~

7 (iv) 25 percent of the monthly per-line support that the ILEC ETP ~~is~~was
8 eligible to receive on December 31, ~~2024~~2017, if the petition ~~is~~was
9 filed on or after January 1, ~~2027~~2019, and before January 1,
10 ~~2028~~2020; ~~Or~~

11 (v) zero percent of the monthly per-line support that the ILEC ETP is
12 eligible to receive on December 31, 2023, if the petition is filed on
13 or after January 1, 2028, and before January 1, 2029.

14 (E) An ILEC ETP may only be awarded continued support for the provision of
15 service in exchanges with service that is eligible for support from the
16 THCUSP or SRILEC USP at the time of filing of a petition in accordance
17 with paragraph pursuant to subsection (f)(1) of this section.

18 (F) **Portability of support.** The support amounts established in accordance
19 with~~pursuant to~~ this section are applicable to all ETPs and are portable with
20 the customer.

21
22 (f) **Proceeding to Determine Financial Need and Amount of Support.**

23 (1) **Petition to determine financial need.** An ILEC ETP that is subject to §26.403(f)
24 or §26.404(g) of this title may petition the commission to initiate a contested case

proceeding to demonstrate that it has a financial need for continued support for the provision of basic local telecommunications service.

(A) An ILEC ETP that is subject to either §26.403(f) or §26.404(g) of this title may only file one petition in accordance with~~pursuant to~~ this subsection. A petition filed in accordance with~~pursuant to~~ this subsection must~~shall~~ include the information necessary to reach the determinations specified in this subsection.

(B) An ILEC ETP filing a petition in accordance with~~pursuant to~~ this subsection must~~shall~~ provide notice as required by the presiding officer in accordance with~~pursuant to~~ §22.55 of this title (relating to Notice in Other Proceedings). At a minimum, notice must~~shall~~ be published in the *Texas Register*.

(C) A petition filed in accordance with~~pursuant to~~ this subsection must~~shall~~ include a summary of the following total Texas regulated expenses and property categories, including supporting workpapers, attributable to the ILEC ETP's exchanges with service supported by the THCUSP or SRILEC USP during the twelve month period ending with the most recently completed calendar quarter prior to the filing of the petition:

(i)-(ix)(No change.)

(D) A summary filed in accordance with~~pursuant to~~ this subsection must~~shall~~ be filed publicly. Workpapers filed in accordance with~~pursuant to~~ this subsection may be filed publicly or confidentially~~under seal~~.

(E) Upon receipt of a petition in accordance with~~pursuant to~~ this section, the commission will~~shall~~ initiate a contested case proceeding to determine whether the ILEC ETP has a financial need for continued support under this section for the exchanges identified in the petition. In the same proceeding, the commission will~~shall~~ set a new monthly per-line support amount for all exchanges served by the ILEC ETP.

(2) **Issuance of final order on petition.** The commission will~~shall~~ issue a final order in the proceeding not later than the 330th day after the date the petition is filed with the commission. Until the commission issues a final order on the proceeding, the ILEC ETP must~~shall~~ continue to receive the total amount of support it was eligible to receive on the date the ILEC ETP filed a petition under this subsection.

(3) **Effect of final order.** An ILEC ETP is~~shall~~ not be subject to §26.403(f) or §26.404(g) of this title after the commission issues a final order on the petition.

(4) **Burden of proof.** The ILEC ETP filing a petition in accordance with~~pursuant to~~ this subsection must~~shall~~ bear the burden of proof with respect to all issues that are in the scope of the proceeding.

(g) **De-averaging of the support received by ILEC ETPs from the SRILEC USP.** On or before January 1, 2017, an ILEC ETP filing a petition in accordance with~~pursuant to~~ paragraph ~~subsection~~ (f)(1) of this section and that receives support from the SRILEC USP may include in its petition a request that the commission determine for each exchange served by the ILEC ETP new monthly per-line support amounts that the ILEC

ETP will be eligible to receive on December 31, 2017. The new monthly per-line support amounts will be calculated using the following methodology.

- (1) The commission ~~will~~shall use per-line proxy support levels based on the following ranges of average residential line density per square mile within an individual exchange. These proxies are used specifically for the purpose of de-averaging and do not indicate a preference that support at these levels be provided from the SRILEC USP.

Residential Line Density Per Square Mile	Proxy Per-Line Support Amount
0 to 2.49	\$120.53
2.49 to 4.99	\$69.82
5 to 9.99	\$46.46
10 to 14.99	\$31.45
15 to 19.99	\$18.81
20 to 24.99	\$14.78
25 to 29.99	\$10.51
30 to 49.99	\$4.33
50 or greater	\$1.83

- (2) Using the per-line proxy support amount levels set forth in this subsection, the commission ~~will~~shall create a benchmark support amount for each exchange of a requesting ILEC ETP. The benchmark support amount for each individual supported exchange of a company or cooperative is calculated by multiplying the number of total eligible lines as of December 31, 2016 served by the ILEC ETP within each exchange by the corresponding proxy support amount for that individual exchange based on the average residential line density per square mile of the exchange as of December 31, 2016.
- (3) To the extent that the total sum of the benchmark support amounts for all of the supported exchanges of a company or cooperative is greater than or less than the

targeted total support amount a company or cooperative would be eligible to receive on December 31, 2017 as a result of the final order in Docket No. 41097, the benchmark per-line support amount for each exchange ~~must~~ shall be proportionally reduced or increased by the same percentage amount so that the total support amount a company or cooperative is eligible to receive on December 31, 2017, as a result of the final order in Docket No. 41097, is unaffected by the de-averaging process.

(4) The per-line support amount that a company or cooperative is eligible to receive in a specific exchange on December 31, 2017, for purposes of a petition filed in accordance with paragraph ~~pursuant to~~ subsection (f)(1) of this section, is the per-line support amount for each exchange determined through the de-averaging process set forth in this subsection.

(h) **Reporting requirements.** An ILEC ETP that receives support in accordance with ~~pursuant to~~ this section ~~is~~ shall remain subject to the reporting requirements prescribed by ~~of~~ §26.403(g) or §26.404(h) of this title.

(i) **Additional Financial Assistance.** Nothing in this section ~~prohibits~~ shall be interpreted to prohibit an ILEC or a cooperative that is not an electing company under Chapter 58, 59, or 65 of PURA to apply for Additional Financial Assistance in accordance with ~~pursuant to~~ §26.408 of this title (relating to Additional Financial Assistance (AFA)).

(j) **Service to be supported.** The services to be supported ~~in accordance with~~~~pursuant to~~ the section are subject to the same definitions and limitations as those ~~prescribed by~~~~set out in~~ §26.403(d) and §26.404(d) of this title, in addition to any limitation ordered by the commission in a contested case proceeding.

(k) **Expiration of support to an ILEC ETP.** On December 31, 2024, support to an ILEC ETP or cooperative must be reduced to zero percent of the amount of support that the company is eligible to receive on that date if the following conditions are met:

(1) The support to the ILEC ETP or cooperative has been reduced to 25 percent of the amount of support the ILEC ETP or cooperative was eligible to receive before December 31, 2022; and

(2) The ILEC ETP or cooperative has not submitted a petition under paragraph (f)(1) of this section.

(l) **Relinquishment of support.** An ETP may file a notice with the commission of the ETP's relinquishment of the support it is entitled to receive under this subchapter.

(1) After notice by the provider, the commission will notify the TUSF administrator of the relinquishment and require the TUSF administrator to terminate support to the provider.

(2) If the commission does not notify the TUSF administrator before 90 days of the date the ETP filed the notice with the commission, the ETP may stop receiving support 90 days from the date the ETP filed notice with the commission.

1 **§26.407. Small and Rural Incumbent Local Exchange Company Universal Service**

2 (a) (No change.)

3
4 (b) **Application.** This section applies to a small ILEC that has been designated as an eligible
5 telecommunications provider (ETP) by the commission in accordance with §26.417 of this
6 title (relating to Designation as Eligible Telecommunications Providers to Receive Texas
7 Universal Service Funds (TUSF)).

8 ~~(1) — **Small ILECs.** This section applies to a small ILEC that has been designated as an~~
9 ~~eligible telecommunications provider (ETP) by the commission in accordance with~~
10 ~~§26.417 of this title (relating to Designation as Eligible Telecommunications~~
11 ~~Providers to Receive Texas Universal Service Funds (TUSF)).~~

12 ~~(2) — **Other ETPs providing service in small or rural ILEC study areas.** This section~~
13 ~~applies to a telecommunications provider, other than a small ILEC that provides~~
14 ~~service in small ILEC study areas that have been designated as an ETP by the~~
15 ~~commission in accordance with §26.417 of this title.~~

16
17 (c) **Definitions.** The following words and terms, when used in this section, ~~will~~ have the
18 following meaning, unless the context clearly indicates otherwise:

19 (1)-(4) (No change.)

20
21 (d) **Notification to the commission that a small ILEC seeks to participate in this section.**

22 A small ILEC that is not an electing company under Chapters 58 or 59 may file a written
23 notice to the commission to participate in this section to have the commission determine

the amount of Small and Rural Incumbent Local Exchange Company Universal Service Plan support it receives, so that such support, combined with regulated revenues, provides the small ILEC an opportunity to earn a reasonable rate of return if the reported rate of return of such small ILEC is based on expenses that it believes are reasonable and necessary. When adjusting monthly support, the commission will consider, among other ~~factorsthings~~ described in this section, the adequacy of basic rates to support universal service. A small ILEC that submits a written notice to participate in this section will continue to receive the same level of Small and Rural Incumbent Local Exchange Company Universal Service Plan support it was receiving on the date of the written notice until the commission makes a determination or adjustment under this section.

(e) **Annual report of a requesting small ILEC.**

(1) **Deadlines for annual reports.** A small ILEC that submits a written notice under subsection (d) of this section must file an annual report each year with the commission, using the form prescribed by the commission~~commission-prescribed forms~~ that ~~is~~are available on the commission's website. The initial annual report for a small ILEC that files a written notice under subsection (d) of this section must be filed within two months after a small ILEC elects to participate in this section. Subsequent annual reports must be filed no later than September 15th of each year. All annual reports must be related to the most recent calendar year prior to the filing of the annual report.

(2) **Contents of annual report.** The annual report filed by a small ILEC under this subsection must include information on the following:

(A)-(J)(No change.)

(K) all detail and supporting documentation necessary to support each of the items in ~~paragraph~~subsection (e)(2); and

(L) an authorized official's signature.

(3) **Cost allocation manual.** The small ILEC must ~~also~~ provide its full and complete cost allocation manual as part of the annual report specified by paragraph (2) of this section.

(4) **Operational information.** By September 15, 2024, and on an annual basis thereafter, a small ILEC must file with the commission the following information regarding the provider's operations that are regulated by the commission:

(A) total operating revenues;

(B) total operating expenses;

(C) total operating tax expense;

(D) rate of return;

(E) total invested capital; and

(F) network access revenue.

(5) The operational information specified by paragraph (4) of this subsection must be filed as part of a small ILEC's annual report specified by paragraph (2) of this subsection.

(A) A copy of the operational information specified by paragraph (4) of this subsection must be filed publicly with the commission. The public filing is prohibited from being filed confidentially in accordance with PURA §56.032(k).

(B) A small ILEC must provide reconciled information to the extent the operational information specified by paragraph (4) of this subsection is deficient or, where applicable, does not match the information provided in a small ILEC's annual report.

(C) To the extent that commission staff determines the operational information is deficient, the small ILEC must provide the reconciled information to the commission in a public filing prior to the deadline prescribed by the presiding officer.

(f) **Commission staff's review of annual reports.** An annual report~~Annual reports~~ submitted under this section will be reviewed by commission staff to determine whether a small ILEC's support, when combined with regulated revenues, provide the small ILEC an opportunity to earn a reasonable rate of return and whether the reported rate of return of the small ILEC is based on expenses that the commission staff determines are reasonable and necessary.

(1) **Timeline for review of the annual reports.**

(A) (No change.)

(B) Within 90 days after an annual report has been filed, commission staff will complete its review of the annual report and file a memorandum for the commission's consideration regarding a final recommendation on the reported or commission staff~~commission-staff~~ adjusted rate of return.

(2) **Commission staff's review of an annual report.**

(A) (No change.)

(B) Commission staff will recalculate the small ILEC's reported rate of return and provide an adjusted rate of return if any adjustments were made in ~~subparagraph~~ paragraph (2)(A) of this subsection.

(3) **Separation of small ILECs into rate of return categories.** Upon completion of commission staff's review of a small ILEC's annual report, commission staff will determine the appropriate category for the small ILEC within the following three categories based on the small ILEC's reported or ~~commission staff~~ ~~commission-~~ ~~staff~~ adjusted rate of return:

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

(4) Commission staff will file a memorandum for the commission's consideration of the categorization of each small ILEC in accordance with ~~subparagraph~~ paragraph (1)(B) of this subsection.

(g) **Treatment of small ILECs based on rate of return categories.** Each category of ILEC will be processed as set forth below.

(1) **Category 1** - A small ILEC that has a reported or ~~commission staff~~ ~~commission-~~ ~~staff~~ adjusted rate of return in Category 1 may file an application for an adjustment to have its annual Small and Rural Incumbent Local Exchange Company Universal Service Plan support or basic rates increased to a level that would allow the small ILEC to earn an amount that would be considered a reasonable rate of return, except that the adjustment may not set a small ILEC's support level at more than 140 percent of the annualized support the provider received in the 12-month period

before the date of the adjustment. Any rate adjustments may not adversely affect universal service.

(2) **Category 2** - A small ILEC that has a reported or ~~commission staff~~ commission staff adjusted rate of return in Category 2 will be considered to be earning a reasonable rate of return and will not be eligible to file for an adjustment to its Small and Rural Incumbent Local Exchange Company Universal Service Plan support, except as described in ~~subparagraph~~ subsection (h)(2)(B) of this section. The commission may not initiate a proceeding against a small ILEC that has a reported or ~~commission staff~~ commission staff adjusted rate of return within Category 2.

(3) **Category 3** - For a small ILEC that has a reported or ~~commission staff~~ commission staff adjusted rate of return in Category 3, the commission staff may initiate a proceeding to review and adjust the small ILEC's Small and Rural Incumbent Local Exchange Company Universal Service Plan support or basic rates to adjust the small ILEC's rate of return into the reasonable rate of return range. A small ILEC that has a ~~commission staff~~ commission staff adjusted rate of return in Category 3 is not eligible to file for an adjustment to its Small and Rural Incumbent Local Exchange Company Universal Service Plan support, except as described in ~~subparagraph~~ subsection (h)(2)(B) of this section.

(h) **Contested case procedures.**

(1) **Documents to be submitted.** At a minimum, the following information must be provided by a small ILEC in a contested case proceeding, ~~regardless~~ irrespective of whether such case is initiated by a small ILEC or commission staff. Any

proceeding filed under this section in which a party has intervened and requested a hearing is a case initiated by a small ILEC or commission staff and the filing requirements listed below apply to such cases.

(A)-(D) (No change.)

(2) **Qualification for contested case proceeding.**

(A) **Category 1 small ILECs.** A small ILEC in Category 1, as identified in ~~paragraph~~subsection (f)(3) of this section, may file an application that is eligible for administrative review or informal disposition to request an adjustment to its Small and Rural Incumbent Local Exchange Company Universal Service Plan or basic rates to allow the company to earn a reasonable rate of return.

(B) **Category 2 or Category 3 small ILECs subsequent to rate of return adjustment by commission staff.** A small ILEC that has a reported rate of return in Category 1 or Category 2, as identified in subsection (f)(3) of this section, but that has a ~~commission staff~~commission staff adjusted rate of return in Category 2 or Category 3, may file a petition to contest the ~~commission staff~~commission staff adjusted rate of return and may also request an adjustment to its Small and Rural Incumbent Local Exchange Company Universal Service Plan support or basic rates in the same proceeding. A small ILEC that has a reported rate of return in Category 2 but because of ~~commission staff~~commission staff adjustments the small ILEC is in Category 3, may file a petition to contest the commission staff adjustments. However, the small ILEC may not

request an adjustment to its Small and Rural Incumbent Local Exchange Company Universal Service Plan support or basic rates. Any proceeding that is initiated by a small ILEC to protest a reclassification and in which a party has intervened and requested a hearing is a case initiated by a small ILEC and the filing requirements listed below apply to these cases.

(C) **Category 3 small ILECs.** A small ILEC in Category 3, as identified in ~~paragraph subsection (f)(3)~~ of this section, is subject to a commission staff ~~initiated~~~~staff-initiated~~ proceeding to review the company's annual report and reported rate of return, must submit the information listed in paragraph (1) of this subsection.

(3)-(4) (No change.)

(5) **Timing for contested cases.** The commission ~~will~~must grant or deny an application filed under subsection not later than 120 days~~the 120th day~~ after the date a sufficient application is filed. The commission may extend the deadline upon a showing of good cause. The application will be processed in accordance with the commission's rules applicable to docketed cases.

(6) (No change.)

(i) **Confidentiality of information.**

(1) (No change.)

(2) A third party may only access confidential information filed according to subsection (h) of this section, or a proceeding~~proceedings~~ related to that filing, if the third party is subject to an appropriate protective order.

(3) (No change.)

(j) **Commission adjustment of the small ILEC's revenue requirement and Small and Rural Incumbent Local Exchange Company Universal Service Plan support.**

(1) (No change.)

(2) **Small and Rural Incumbent Local Exchange Company Universal Service Plan (SRIUSP) support payments to small ILECs.** The commission will determine the amount of adjustment to the annual ~~SRIUSP~~~~Small and Rural Incumbent Local Exchange Company Universal Service Plan~~ support or basic rates for the small ILEC that will be needed to meet the new revenue requirement identified in this paragraph. The commission will determine the fixed monthly support payment for a small ILEC by dividing the ~~SRIUSP~~~~Small and Rural Incumbent Local Exchange Company Universal Service Plan~~ support by 12. Each small ILEC that has ~~SRIUSP~~~~Small and Rural Incumbent Local Exchange Company Universal Service Plan~~ support adjusted under this section must provide the TUSF administrator with a copy of the final order indicating the adjusted amount of ~~SRIUSP~~~~Small and Rural Incumbent Local Exchange Company Universal Service Plan~~ support.

~~(3) SRIUSPSmall and Rural Incumbent Local Exchange Company Universal Service Plan support payments to ETPs other than small ILECs. The SRIUSPSmall and Rural Incumbent Local Exchange Company Universal Service Plan support for ETPs other than a small ILEC will be determined by calculating the per line support for each small ILEC's study area based on the most recent monthly support using December line counts for the small ILEC. The payment to~~

1 ~~each ETP other than a small ILEC will be calculated by multiplying the computed~~
2 ~~per-line amount for the given small ILEC study area by the number of eligible lines~~
3 ~~served by the ETP in such study area for the month.~~

4

5 (k)-(l) (No change.)

6

§26.409. Review of Texas Universal Service Fund Support Received by Competitive Eligible Telecommunications Providers.

(a) **Purpose.** This section implements PURA §56.023(p) and (r) and establishes the criteria and process for determining whether Texas Universal Service Fund (TUSF) support under ~~16 TAC~~ §26.403 of this title (relating to Texas High Cost Universal Service Plan (THCUSP)) to a competitive Eligible Telecommunications Provider (ETP) should be eliminated.

(b) **Application.** This section applies to exchanges in which an incumbent local exchange company or cooperative is ineligible for support under PURA §56.021(1) and a competitive ETP receives TUSF support under ~~16 TAC~~ §26.403 of this title. This section expires on December 31, 2023.

(c) (No change.)

(d) **Identification of exchanges for review.**

(1) No later than April 30 of each year, commission staff must report:

(A) Each exchange~~The exchanges~~ in which the number of access lines served by competitive ETPs has decreased by at least 50% from the number of access lines that were served in that exchange by competitive ETPs on December 31, 2016; and

(B) The number of access lines served by those competitive ETPs identified in subparagraph (A) of this paragraph on December 31 of the prior calendar~~previous~~ year.

(2) (No change.)

(e) (No change.)

(f) **Competitive ETP's response to commission staff's application.**

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

(3) The response must be in writing, supported by affidavit, and filed with the commission as prescribed by 16 TAC §22.71 of this title (relating to Filing of Pleadings, Documents, and Other Materials).

(g)-(j) (No change.)

1 **§26.414. Telecommunications Relay Service (TRS).**

2

3 (a) **Purpose.** The provisions of this section are intended to establish a statewide

4 telecommunications relay service for individuals who are hearing-impaired or speech-

5 impaired using specialized telecommunications devices and operator translations.

6 Telecommunications relay service ~~must~~shall be provided on a statewide basis by one

7 telecommunications carrier, except that the commission may contract with another vendor

8 for a special feature in certain circumstances. Certain aspects of telecommunications relay

9 service operations are applicable to local exchange companies and other

10 telecommunications providers.

11

12 (b) **Provision of TRS.** TRS ~~must~~shall provide individuals who are hearing-impaired or

13 speech-impaired with access to the telecommunications network in Texas equal to that

14 provided to other customers.

15 (1) **Components of TRS.** TRS ~~must~~shall meet the mandatory minimum standards

16 defined in §26.5 of this title (relating to Definitions) and ~~must include~~further shall

17 ~~consist of~~ the following:

18 (A)-(E)(No change.)

19 (F) the capability of providing sufficient information to allow calls to be

20 accurately billed;

21 (G) the capability of providing for technologies such as hearing carryover or

22 voice carryover;

23 (H)-(I) (No change.)

(J) the capability for callers to place calls through TRS from locations other than their primary location and to utilize alternate billing arrangements;

(K) the capability of providing both inbound and outbound intrastate and interstate service;

(L) the capability for carrier of choice; and

(M) (No change.)

(2) **Conditions for interstate service.** The TRS carrier ~~must~~shall not be reimbursed from the Texas Universal Service Fund (TUSF) for the cost of providing interstate TRS. Interstate TRS ~~must~~shall be funded through the interstate jurisdiction as mandated by the Federal Communications Commission. Separate funds and records ~~must~~shall be maintained by the TRS carrier for intrastate TRS and interstate TRS.

(3) **Rates and charges.** The following rates and charges ~~shall~~ apply to TRS:

(A) Local calls. The calling and called parties ~~must~~shall bear no charges for calls originating and terminating within the same toll-free local calling scope.

(B) Intrastate long distance calls. The TRS carrier ~~must~~shall discount its tariffed intrastate rates by 50% for TRS users.

(C) Access charges. A telecommunication provider must~~Telecommunications providers shall~~ not impose access charges on calls that make use of this service or on calls that~~and which~~ originate and terminate within the same toll-free local calling scope.

(D) Billing and collection services. Upon request by the TRS carrier, a telecommunications ~~provider must~~~~providers shall~~ provide billing and collection services in support of this service at just and reasonable rates.

(c) **Contract for the TRS carrier.**

(1) **Selection.** On or before April 1, 2000, the commission ~~will~~~~shall~~ issue a request for proposal and select a carrier to provide statewide TRS based on the following criteria: price, the interests of individuals who are hearing-impaired and speech-impaired in having access to a high quality and technologically advanced~~technologically advanced~~ telecommunications system, and all other factors listed in the commission's request for proposals. The commission ~~will~~~~shall~~ consider each proposal in a manner that does not disclose the contents of the proposal to competing ~~offeror~~~~offerers~~. The commission's determination ~~will~~~~shall~~ include evaluations of charges for the service, service enhancements proposed by the ~~offeror~~~~offerers~~, and technological sophistication of the network proposed by the ~~offeror~~~~offerers~~. The commission ~~will~~~~shall~~ make a written award of the contract to the ~~offeror~~~~offerer~~ whose proposal is the most advantageous to the state.

~~(2) **Location.** The operator centers used to provide statewide TRS shall be located in Texas.~~

~~(23)~~ **Contract administration.**

(A) Contract amendments. All recommendations for amendments to the contract ~~must~~~~shall~~ be filed with the executive director of the commission on June 1 of each year. The executive director is authorized to approve or deny

1 all amendments to the contract between the TRS carrier and the
2 commission, provided, however, that the commission specifically ~~will~~shall
3 approve any amendment that will increase the cost of TRS.

4 (B) Reports. ~~Each~~The TRS ~~carrier~~carrier(s) and telecommunications
5 ~~provider~~providers ~~must~~shall submit reports of their activities relating to the
6 provision of TRS upon request of the commission or the Relay Texas
7 administrator.

8 (C) Compensation. ~~Each~~The TRS ~~carrier~~carrier(s) ~~must~~shall be compensated
9 by the TUSF for providing TRS at the rates, terms, and conditions
10 established in its contract with the commission, subject to the following
11 conditions:

12 (i) Reimbursement ~~must~~shall include the TRS costs that are not paid by
13 the calling or the called party, except the TRS carrier ~~must~~shall not
14 be reimbursed for the 50% discount set forth in
15 ~~subparagraph~~subsection (b)(3)(B) of this section.

16 (ii) Reimbursement may include a return on the investment required to
17 provide the service and the cost of unbillable and uncollectible calls
18 placed through the service, provided that the cost of unbillable and
19 uncollectible calls ~~must~~shall be subject to a reasonable limitation as
20 determined by the commission.

21 (iii) The TRS carrier ~~must~~shall submit a monthly report to the
22 commission justifying its claims for reimbursement under the

contract. Upon approval by the commission, the TUSF ~~must~~shall
make a disbursement in the approved amount.

(d) **Special features for TRS.**

(1) (No change.)

(2) If the carrier selected to provide the telecommunications relay access service is unable to provide the special feature at the best value to the state, the commission may make a written award of a contract for a different carrier to provide the special feature to the telecommunications carrier whose proposal is most advantageous to the state, considering;

(A) factors stated in ~~paragraph~~subsection (c)(1) of this section;

(B) (No change.)

(3) The commission ~~will~~shall consider each proposal in a manner that does not disclose the contents of the proposal to a telecommunications carrier making a competing proposal.

(4) The commission's evaluation of a telecommunications carrier's proposal ~~must~~shall include the considerations listed in ~~paragraph~~subsection (c)(1) of this section.

(e) **Advisory Committee.** The commission ~~will~~shall appoint an Advisory Committee, to be known as the Relay Texas Advisory Committee (RTAC) to assist the commission in administering TRS and the specialized telecommunications assistance program, as specified by the Public Utility Regulatory Act (PURA) §56.111. The Relay Texas administrator ~~must~~shall serve as a liaison between ~~the~~ RTAC and the commission. The

1 Relay Texas administrator ~~must~~shall ensure that ~~the~~ RTAC receives clerical and staff
2 support, including a secretary or court reporter to document RTAC meetings.

3 (1) **Composition.** The commission ~~will~~shall appoint RTAC members based on
4 recommended lists of candidates submitted by the organizations named as follows.

5 ~~The~~ RTAC ~~must~~shall be composed of:

6 (A)-(E)(No change.)

7 (F) one deaf and blind person recommended by the Texas Deaf or Blind
8 Association;

9 (G)-(J) (No change.)

10 (2) **Conditions of membership.** The term of office of each RTAC member ~~must~~shall
11 be two years. A member whose term has expired ~~must~~shall continue to serve until
12 a qualified replacement is appointed. In the event a member cannot complete his
13 or her term, the commission ~~will~~shall appoint a qualified replacement to serve the
14 remainder of the term. RTAC members ~~must~~shall serve without compensation but
15 ~~must~~shall be entitled to reimbursement at rates established for state employees for
16 travel and per diem incurred in the performance of their official duties, provided
17 such reimbursement is authorized by the Texas Legislature in the General
18 Appropriations Act.

19 (3) **Responsibilities.** The RTAC ~~must~~shall undertake the following responsibilities:

20 (A)-(D) (No change.)

21 (4) **Committee activities report.** After each RTAC meeting, the Relay Texas
22 administrator ~~must~~shall prepare a report to the commission regarding ~~the~~ RTAC
23 activities and recommendations.

(A) The Relay Texas administrator ~~must~~shall file in Central Records under Project Number 13928, and provide to each commissioner, a report containing:

(i)-(ii) (No change.)

(iii) a list of items, recommended by ~~the~~ RTAC, for the Relay Texas administrator to discuss with the TRS carrier, including issues related to the provisioning of the service that do not require amendments to the contract.

(B) (No change.)

(5) **Evaluation of RTAC costs and effectiveness.** The commission ~~will~~shall evaluate the advisory committee annually. The evaluation ~~will~~shall be conducted by an evaluation team appointed by the executive director of the commission. The commission liaison, RTAC members, and other commission employees who work directly or indirectly with ~~the~~ RTAC, TRS, or the equipment distribution program ~~are~~shall not be eligible to serve on the evaluation team. The evaluation team will report to the commission in open meeting each August of its findings regarding:

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

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

(a) **Purpose.** This section provides the requirements for the commission to designate telecommunications providers as eligible telecommunications providers (ETPs) to receive funds from the Texas Universal Service Fund (TUSF) under §26.403 of this title (relating to the Texas High Cost Universal Service Plan (THCUSP)) and §26.404 of this title (relating to the Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan). Only telecommunications providers designated by the commission as ETPs shall qualify to receive universal service support under these programs.

(b) **Requirements for establishing ETP service areas.**

(1) THCUSP service area. A THCUSP service area ~~is shall be~~ based upon wire centers (WCs) or other geographic area as determined appropriate by the commission. A telecommunications provider may be designated an ETP for any or all WCs that are wholly or partially contained within its certificated service area. An ETP must serve an entire WC, or other geographic area as determined appropriate by the commission, unless its certificated service area does not encompass the entire WC, or other geographic area as determined appropriate by the commission.

(2) Small and Rural ILEC Universal Service Plan service area. A Small and Rural ILEC Universal Service Plan service area for an ETP serving in a small or rural ILEC's territory must~~shall~~ include the entire study area of such small or rural ILEC.

(c) **Criteria for designation of ETPs.**

(1) **Telecommunications providers.** A telecommunications provider, as defined in the Public Utility Regulatory Act (PURA) §51.002(10), ~~is~~shall be eligible to receive TUSF support in accordance with 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) the telecommunications provider has been designated an eligible telecommunications carrier, in accordance with~~pursuant to~~ §26.418 of this title (relating to the Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds), and provides the federally designated services to customers in order to receive federal universal service support;

(B) the telecommunications provider defines its ETP service area in accordance with~~pursuant to~~ subsection (b) of this section and assumes the obligation to offer any customer within an exchange in its ETP service area, for which the provider receives support under this section, basic local telecommunications services, as defined in §26.403 of this title, at a rate not to exceed 150% of the ILEC's tariffed rate;

(C) the telecommunications provider offers basic local telecommunications services using either its own facilities, purchased unbundled network elements (UNEs), or a combination of its own facilities, purchased UNEs, or~~and~~ resale of another carrier's services;

(D) the telecommunications provider renders continuous and adequate service within an exchange in its ETP service area for which the provider receives support under this section, in compliance with the quality of service standards defined in §26.52 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);

(E)-(F)(No change.)

(2) **ILECs.** If the telecommunications provider is an ILEC, as defined in PURA §51.002(10), it ~~must~~shall be eligible to receive TUSF support pursuant to §26.403 of this title in each service area for which it seeks ETP designation if it meets the requirements of paragraph (1) of this subsection and the following requirements:

(A) If the ILEC is regulated ~~under~~pursuant to the Public Utility Regulatory Act (PURA) Chapter 58 or 59 it ~~must~~shall either:

(i)-(ii) (No change.)

(B) If the ILEC is not regulated ~~under~~pursuant to PURA Chapter 58 or 59 it ~~must~~shall reduce its rates for services determined appropriate by the commission by an amount equal to its THCUSP support amount.

(C) Any reductions in switched access service rates for ILECs with more than 125,000 access lines in service in this state on December 31, 1998, that are made in accordance with this section ~~must~~shall be proportional, based on equivalent minutes of use, to reductions in ~~intra-LATA~~intra-LATA toll rates, and those reductions ~~must~~shall be offset by equal disbursements from

the universal service fund under PURA §56.021(1). This subparagraph expires August 31, 2007.

(d) (No change.)

(e) **Proceedings to designate telecommunications providers as ETPs.**

(1) (No change.)

(2) ~~To~~~~in order to~~ receive support under §26.403 or §26.404 of this title for exchanges purchased from an unaffiliated provider, the acquiring ETP must~~shall~~ file an application, within 30 days after the date of the purchase, to amend its ETP service area to include those geographic areas in the purchased exchanges that are eligible for support.

(3) If an ETP receiving support under §26.403 or §26.404 of this title sells an exchange to an unaffiliated provider, it must~~shall~~ file an application, within 30 days after the date of the sale, to amend its ETP designation to exclude those exchanges for which it was receiving support, from its designated service area, ~~those exchanges for which it was receiving support.~~

(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 must~~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 ~~must~~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 ~~PUCT~~Public Utility Commission's ~~Consumer~~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~~through Relay Texas at ~~(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 ~~must~~shall file with the commission an application complying with the requirements of this section. ~~AIn addition to copies required by other commission rules, one~~ copy of the application ~~must~~shall be delivered to the ~~commission staff and one copy must~~shall be delivered to the Office of Public Utility Counsel.

(i) Telecommunications providers. The application ~~must~~shall:

(I)-(VII)(No change.)

(VIII) provide a statement detailing the method and content of the notice the applicant has provided or intends to provide to the

public regarding the application and a brief statement explaining why the notice proposal is reasonable and that the notice proposal complies with applicable law;

(VIII) provide a statement detailing the method and content of the notice the applicant has provided or intends to provide to the public regarding the application and a brief statement explaining why the notice proposal is reasonable and that the notice proposal complies with applicable law;

(IX)-(XI)(No change.)

(ii) ILECs. If the applicant is an ILEC, in addition to the requirements of clause (i) of this subparagraph, the application mustshall show compliance with the requirements of subsection (c)(2) of this section.

(2) Commission processing of application.

(A) Administrative review. An application considered under this section is eligible for administrative review~~may be reviewed administratively~~ unless the telecommunications provider requests the application be docketed or the presiding officer, for good cause, determines at any point during the review that the application should be docketed.

(i) The effective date of the ETP designation mustshall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later.

- (ii) The application ~~will~~shall be ~~reviewed~~examined for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant ~~will~~shall be notified within ten working days of the filing date of the specific deficiency in its application. The earliest possible effective date of the application ~~will~~shall be no less than 30 days after the filing of a sufficient application with substantially complete information as required by the presiding officer. Thereafter, any deadlines ~~will~~shall be determined 30 days from the ~~30th~~ day after the filing of the sufficient application and information or from the effective date if the presiding officer extends that date.
- (iii) While the application is under administrative review~~being administratively reviewed~~, the commission staff and OPUC~~the staff of the Office of Public Utility Counsel~~ may submit requests for information to the applicant. Answers~~Three copies of all answers~~ to such requests for information ~~must~~shall be provided to the commission staff and OPUC~~the Office of Public Utility Counsel~~ within ten days after receipt of the request by the applicant.
- (iv) No later than 20 days after the filing date of the application or the completion of notice, whichever is later, interested persons may provide written comments or recommendations concerning the application to the commission staff. Commission~~The commission staff~~ ~~must~~shall and OPUC~~the Office of Public Utility Counsel~~ may

1 file with the presiding officer written comments or
2 recommendations regarding the application.

3 (v) No later than 35 days after the proposed effective date of the
4 application, the presiding officer ~~will~~shall issue an order approving,
5 denying, or docketing the application.

6 (B) Approval or denial of application. The application ~~will~~shall be approved by
7 the presiding officer if it meets the following requirements.

8 (i)-(iv)(No change.)

9 (C) Docketing. If, based on the administrative review, the presiding officer
10 determines that one or more of the requirements have not been met, the
11 presiding officer ~~will~~shall docket the application. The requirements of
12 subsection (c) of this section may not be waived.

13 (D) Review of the application after docketing. If the application is docketed,
14 the effective date of the application ~~will~~shall be automatically suspended to
15 a date 120 days after the applicant has filed all of its direct testimony and
16 exhibits, or 155 days after the proposed effective date, whichever is later.

17 ~~Answers~~Three copies of all answers to requests for information ~~must~~shall
18 be filed with the commission within ten days after receipt of the request.
19 Affected persons may move to intervene in the docket, and a hearing on the
20 merits ~~will~~shall be scheduled. A hearing on the merits ~~will~~shall be limited
21 to issues of eligibility. The application ~~will~~shall be processed in accordance
22 with the commission's rules applicable to docketed cases.
23

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

(1) **Area served by more than one ETP.** The commission ~~will~~shall permit a telecommunications provider to relinquish its ETP designation in any area served by more than one ETP upon:

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

(2) (No change.)

(3) **Relinquishment for non-compliance.** The TUSF administrator ~~must~~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) The commission ~~will~~shall revoke the ETP designation of any telecommunications provider determined not to be in compliance with subsection (c) of this section.

(B) (No change.)

(h) **Auction procedure for replacing the sole ETP in an area.** In areas where a telecommunications provider is the sole ETP and seeks to relinquish its ETP designation, the commission ~~will~~shall initiate an auction procedure to designate another ETP. The auction procedure will use a competitive, sealed bid, single-round process to select a telecommunications provider meeting the requirements of ~~paragraph~~subsection (f)(1) of this section that will provide basic local telecommunications service at the lowest cost.

(1) **Announcement of auction.** Within 30 days of receiving a request from the last ETP in a service area to relinquish its designation, the commission ~~will~~shall provide

notice in the *Texas Register* of the auction. The announcement ~~must~~shall at minimum detail the geographic location of the service area, the total number of access lines served, the forward-looking economic cost computed in accordance with~~pursuant to~~ §26.403 of this title, of providing basic local telecommunications service and the other services included in the benchmark calculation, existing tariffed rates, bidding deadlines, and bidding procedure.

(2) **Bidding procedure.** Bids must be received by the TUSF administrator not later than 60 days from the date of publication in the *Texas Register*.

(A) Every bid must contain:

(i) (No change.)

(ii) information to substantiate that the bidder meets the eligibility requirements in paragraph~~subsection~~ (c)(1) of this section; and

(iii) (No change.)

(B) The TUSF administrator ~~must~~shall collect all bids and within 30 days of the close of the bidding period request that the commission approve the TUSF administrator's selection of the successful bidder.

(C) (No change.)

(i) **Requirements for annual affidavit of compliance to receive TUSF support.** An ETP serving a rural or non-rural study area ~~must~~shall comply with the following requirements for annual compliance for the receipt of TUSF support.

(1) **Annual Affidavit of Compliance.** On or before September 1 of each year, an ETP that receives disbursements from the TUSF ~~must~~shall file with the commission an

1 affidavit certifying that the ETP is in compliance with the requirements for
2 receiving money from the universal service fund and requirements regarding the
3 use of money from each TUSF program from which the telecommunications
4 provider receives disbursements.

5 (2) **Filing Affidavit.** The affidavit used must~~shall~~ be the annual compliance affidavit
6 approved by the commission.
7

§26.418. Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds.

(a) **Purpose.** This section provides the requirements for the commission to designate common carriers as eligible telecommunications carriers (ETCs) to receive support from the federal universal service fund (FUSF) in accordance with~~pursuant to~~ 47 United States Code (U.S.C.) §214(e) (relating to Provision of Universal Service). In addition, this section provides guidelines for rural and non-rural carriers to meet the federal requirements of annual certification for FUSF support criteria and, if requested or ordered, for the disaggregation of rural carriers' FUSF support.

(b) (No change.)

(c) **Service areas.** The commission may designate ETC service areas according to the following criteria.

(1) **Non-rural service area.** To be eligible to receive federal universal service support in non-rural areas, a carrier must provide federally supported services in accordance with~~pursuant to~~ 47 Code of Federal Regulations (C.F.R.) §54.101 (relating to Supported Services for Rural, Insular, and High Cost Areas) throughout the area for which the carrier seeks to be designated an ETC.

(2) **Rural service area.** In the case of areas served by a rural telephone company, as defined in §26.404 of this title (relating to Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan), a carrier must provide

federally supported services ~~in accordance with~~^{pursuant to} 47 C.F.R. §54.101 throughout the study area of the rural telephone company in order to be eligible to receive federal universal service support.

(d) **Criteria for determination of ETCs.** A common carrier ~~must~~^{shall} be designated as eligible to receive federal universal service support if it:

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

(e) (No change.)

(f) **Designation of more than one ETC.**

(1) Non-rural service areas. In areas not served by rural telephone companies, as defined in §26.404 of this title, the commission ~~will~~^{shall} designate, upon application, more than one ETC in a service area so long as each additional carrier meets the requirements of ~~paragraph~~^{subsections} (c)(1) and subsection (d) of this section.

(2) Rural service areas. In areas served by rural telephone companies, as defined in §26.404 of this title, the commission may designate as an ETC a carrier that meets the requirements of ~~paragraph~~^{subsections} (c)(2) and subsection (d) of this section if the commission finds that the designation is in the public interest.

(g) **Proceedings to designate ETCs.**

(1) (No change.)

(2) ~~To~~~~In order to~~ receive support under this section for exchanges purchased from an unaffiliated carrier, the acquiring ETC ~~must~~~~shall~~ file an application, within 30 days after the date of the purchase, to amend its ETC service area to include those geographic areas that are eligible for support.

(3) If an ETC receiving support under this section sells an exchange to an unaffiliated carrier, it ~~must~~~~shall~~ file an application, within 30 days after the date of the sale, to amend its ETC designation to exclude from its designated service area those exchanges for which it was receiving support.

(h) **Application requirements and commission processing of applications.**

(1) Requirements for notice and contents of application.

(A) Notice of application. Notice ~~must~~~~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 ~~must~~~~shall~~ include at a minimum a description of the service area for which the applicant seeks eligibility, the proposed effective date of the designation, and the following statement: "Persons who wish to comment on this application should notify the Public Utility Commission of Texas 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 ~~PUCT~~~~Public Utility Commission's~~ Consumer~~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 through Relay Texas at (800) 735-2989 to reach the commission's toll free number ~~(888) 782-8477~~."

(B) Contents of application for each common carrier seeking ETC designation. A common carrier that seeks to be designated as an ETC must~~shall~~ file with the commission an application complying with the requirements of this section. ~~A~~In addition to copies required by other commission rules, one copy of the application must~~shall~~ be delivered to the commission's ~~Regulatory Division and one copy shall~~ be delivered to the Office of Public Utility Counsel (OPUC). The application must~~shall~~:

(i)-(viii)(No change.)

(C) Contents of application for each common carrier seeking ETC designation and receipt of federal universal service support. A common carrier that seeks to be designated as an ETC and receive federal universal service support must~~shall~~ file with the commission an application complying with the requirements of this section. ~~A~~In addition to copies required by other commission rules, one copy of the application ~~shall be delivered to the commission staff and one copy must~~shall be delivered to the Office of Public Utility Counsel. The application must~~shall~~:

(i)-(iii) (No change.)

(2) **Commission processing of application.**

(A) **Administrative review.** An application considered under this section is eligible for administrative review~~may be reviewed administratively unless~~

1 the presiding officer, for good cause, determines at any point during the
2 review that the application should be docketed.

3 (i) The effective date ~~will~~shall be no earlier than 30 days after the filing
4 date of the application or 30 days after notice is completed,
5 whichever is later.

6 (ii) The application ~~will~~shall be ~~reviewed~~examined for sufficiency. If
7 the presiding officer concludes that material deficiencies exist in the
8 application, the applicant ~~will~~shall be notified within ten working
9 days of the filing date of the specific deficiency in its application.
10 The earliest possible effective date of the application ~~will~~shall be no
11 less than 30 days after the filing of a sufficient application with
12 substantially complete information as required by the presiding
13 officer. Thereafter, any deadlines ~~will~~shall be determined 30 days
14 from the ~~30th~~ day after the filing of the sufficient application and
15 information or from the effective date if the presiding officer
16 extends that date.

17 (iii) While the application is under administrative review~~being~~
18 ~~administratively reviewed~~, the commission staff and the staff of
19 OPUC~~the Office of Public Utility Counsel~~ may submit requests for
20 information to the telecommunications carrier. Three copies of all
21 answers to such requests for information ~~must~~shall be provided to
22 the commission staff and OPUC~~the Office of Public Utility Counsel~~

1 within ten days after receipt of the request by the
2 telecommunications carrier.

3 (iv) No later than 20 days after the filing date of the application or the
4 completion of notice, whichever is later, interested persons may
5 provide ~~the~~ commission staff with written comments or
6 recommendations concerning the application. ~~Commission~~The
7 ~~commission~~ staff ~~must~~shall and ~~OPUC~~the Office of Public Utility
8 ~~Counsel~~ may file with the presiding officer written comments or
9 recommendations regarding the application.

10 (v) No later than 35 days after the proposed effective date of the
11 application, the presiding officer ~~will~~must~~shall~~ issue an order
12 approving, denying, or docketing the application.

13 (B) Approval or denial of application.

14 (i) An application filed in accordance with subparagraph~~pursuant to~~
15 ~~paragraph (1)(B)~~ of this subsection ~~will~~shall be approved by the
16 presiding officer if the application meets the following
17 requirements:

18 (I)-(VI)(No change.)

19 (ii) An application filed in accordance with subparagraph~~pursuant to~~
20 ~~paragraph (1)(C)~~ of this subsection ~~will~~shall be approved by the
21 presiding officer if the application meets the following
22 requirements:

23 (I)-(III)(No change.)

1 (C) **Docketing.** If, based on the administrative review, the presiding officer
2 determines that one or more of the requirements have not been met, the
3 presiding officer ~~will~~shall docket the application.

4 (D) **Review of the application after docketing.** If the application is docketed,
5 the effective date of the application ~~will~~shall be automatically suspended to
6 a date 120 days after the applicant has filed all of its direct testimony and
7 exhibits, or 155 days after the proposed effective date, whichever is later.
8 Three copies of all answers to requests for information ~~must~~shall be filed
9 with the commission within ten days after receipt of the request. Affected
10 persons may move to intervene in the docket, and a hearing on the merits
11 ~~will~~shall be scheduled. A hearing on the merits ~~will~~shall be limited to issues
12 of eligibility. The application ~~will~~shall be processed in accordance with the
13 commission's rules applicable to docketed cases.

14 (E) **Waiver.** In the event that an otherwise ETC requests additional time to
15 complete the network upgrades needed to provide single-party service,
16 access to enhanced 911 service, or toll limitation, the commission may grant
17 a waiver of these service requirements upon a finding that exceptional
18 circumstances prevent the carrier from providing single-party service,
19 access to enhanced 911 service, or toll limitation. The period for the waiver
20 ~~must~~shall not extend beyond the time that the commission deems necessary
21 for that carrier to complete network upgrades to provide single-party
22 service, access to enhanced 911 service, or toll limitation services.
23

(i) **Designation of ETC for unserved areas.** If no common carrier will provide the services that are supported by federal universal service support mechanisms under 47 U.S.C. §254(c) to an unserved community or any portion thereof that requests such service, the commission, with respect to intrastate services, ~~will~~shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and ~~will~~shall order such carrier or carriers to provide such service for that unserved community or portion thereof.

(j) **Relinquishment of ETC designation.** A common carrier may seek to relinquish its ETC designation.

(1) **Area served by more than one ETC.** The commission ~~will~~shall permit a common carrier to relinquish its designation as an ETC in any area served by more than one ETC upon:

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

(2) (No change.)

(k) **Rural and non-rural carriers' requirements for annual certification to receive FUSF support.** A common carrier serving a rural or non-rural study area ~~must~~shall comply with the following requirements for annual certification for the receipt of FUSF support.

(1) **Annual certification.** Common carriers must provide the commission with an affidavit annually, on or before September 1~~st~~ of each year, which certifies that the carrier is complying with the federal requirements for the receipt of FUSF support. Upon receipt and acceptance of the affidavits filed on or before September 1~~st~~ each

year, the commission will certify these carriers' eligibility for FUSF to the FCC and the Federal Universal Service Fund Administrator by October 1st of each year.

(2) **Failure to file.** Common carriers failing to file an affidavit by September 1st may still be certified by the commission for annual FUSF. However, the carrier is ineligible for support until the quarter following the federal universal service administrator's receipt of the commission's supplemental submission of the carrier's compliance with the federal requirements.

(3) **Supplemental certification.** For carriers not subject to the annual certification process, the schedule set forth in 47 C.F.R. §54.313 and 47 C.F.R. §54.314(d) for the filing of supplemental certifications ~~applies~~ shall apply.

(4) **Recommendation for Revocation of FUSF support certification.** The commission may recommend the revocation of the FUSF support certification of any carrier that it determines has not complied with the federal requirements in accordance with ~~pursuant to~~ 47 U.S.C. §254(e) and will review any challenge to a carrier's FUSF support certification and make an appropriate recommendation as a result of any such review.

(l) **Disaggregation of rural carriers' FUSF support.** Common carriers serving rural study areas must comply with the following requirements regarding disaggregation of FUSF support.

(1) **Abstain from filing.** If a rural ILEC abstains from filing an election on or before May 15, 2002, the carrier is prohibited from disaggregating ~~will not be permitted to~~

disaggregate its FUSF support unless it is ordered to do so by the commission in accordance with ~~pursuant~~ to the terms of paragraph (5) of this subsection.

(A)-(D) (No change.)

(2) **Abstain from filing.** If a rural ILEC abstains from filing an election on or before May 15, 2002, the carrier is prohibited from disaggregating~~will not be permitted to~~ disaggregate its FUSF support unless it is ordered to do so by the commission in accordance with ~~pursuant~~ to the terms of paragraph (5) of this subsection.

(3) **Requirements for rural ILECs' disaggregation plans.** In accordance with~~Pursuant to the~~ federal requirements, ~~in 47 C.F.R. §54.315(e)~~ a rural ILEC's disaggregation plan, whether submitted in accordance with subparagraph ~~pursuant to paragraph~~ (1)(B), (C) or (D) of this subsection, must meet the following requirements:

(A) (No change.)

(B) the ratio of the per line FUSF support between disaggregation zones for each disaggregated category of FUSF support must~~shall~~ remain fixed over time, except as changes are required pursuant to paragraph (5) of this subsection;

(C) the ratio of per line FUSF support must~~shall~~ be publicly available;

(D) the per line FUSF support amount for each disaggregated zone or wire center must~~shall~~ be recalculated whenever the rural ILEC's total annual FUSF support amount changes and revised total per line FUSF support and updated access line counts must~~shall~~ then be applied using the changed

FUSF support amount and updated access line counts applicable at that point;

(E) each support category complies with subparagraphs (A) and (B) of this paragraph;

(F) monthly payments of FUSF support ~~must~~shall be based upon the annual amount of FUSF support divided by 12 months if the rural ILEC's study area does not contain a competitive carrier designated as an ETC; and

(G) (No change.)

(4) **Additional requirements for self-certification of a disaggregation plan.** In accordance with federal requirements~~Pursuant to 47 C.F.R. §54.315(d)(2)~~, a rural ILEC's self-certified disaggregation plan must also include the following items in addition to those items required by paragraph (3) of this subsection:

(A)-(B)(No change.)

(C) a clearly specified per-line level of FUSF support for each category~~pursuant to 47 C.F.R. §54.315(d)(2)(iii)~~;

(D) if the plan uses a benchmark, a detailed explanation of the benchmark and how it was determined that the benchmark is generally consistent with how the level of support for each category of costs was derived so that competitive ETCs may compare the disaggregated costs for each cost zone proposed; and

(E) (No change.)

(5) (No change.)

(6) **Effective dates of disaggregation plans.** The effective date of a rural ILEC's disaggregation plan ~~must~~ shall be as specified ~~by federal law in 47 C.F.R. §54.315.~~

**§26.419. Telecommunication Resale Providers Designation as Eligible
Telecommunications Providers to Receive Texas Universal Service Funds
(TUSF) for Lifeline Service.**

(a) **Scope and Purpose.** This section provides the requirements for the commission to designate certificated providers of local exchange telephone service that provide this service solely through the resale of an incumbent local exchange carrier's (ILEC) services as an eligible telecommunications provider (ETP) for the specific purpose of receiving funds for Lifeline Service from the Texas Universal Service Fund (TUSF) under §26.412 of this title (relating to the Lifeline Service Program). Only ~~resale~~**Resale** ETPs as defined by §26.412(b)(2) of this title ~~must~~**shall** qualify to receive universal service support under this program.

(b) **Requirements for establishing ETP service areas.**

(1) **Texas High Cost Universal Service Plan (THCUSP) service area.** A THCUSP service area ~~must~~**shall** be based upon wire centers (WCs) or other geographic area as determined appropriate by the commission. A telecommunications provider may be designated an ETP for any or all WCs contained within its certificated service area. An ETP must serve an entire WC or other geographic area as determined appropriate by the commission.

(2) **Small and Rural ILEC Universal Service Plan (SRIUSP) service area.** A SRIUSP service area for an ETP serving in a small or rural ILEC's territory ~~must~~**shall** include the entire study area of such small or rural ILEC.

(c) **Criteria for designation of ETPs.** A ~~resale~~Resale ETP as defined by §26.412(b)(2) of this title ~~must~~shall be eligible to receive TUSF support ~~in accordance with~~pursuant to §26.412 of this title for Lifeline Service only in each service area of a large company (THCUSP) or the study area of a small company (SRIUSP) for which it seeks ETP designation if it meets the following requirements:

(1)-(3) (No change.)

(d) **Requirements for application for Resale ETP designation and commission processing of application.**

(1) **Requirements for notice and contents of application for Resale ETP designation.**

(A) **Notice of application.** Notice ~~must~~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 ~~must~~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 PUCT ~~Public Utility Commission's~~ Consumer~~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
through Relay Texas at (800) 735-2989 to reach the commission's toll-free
number (888) 782-8477.”

(B) **Contents of application.** A certificated provider of local exchange
telephone service seeking to be designated as a ~~resale~~ Resale ETP ~~must~~ shall
file with the commission an application complying with the requirements of
this section. ~~A~~ In addition to copies required by other commission rules, one
copy of the application ~~must~~ shall be delivered to ~~the commission staff and~~
~~one copy must~~ shall be delivered to the Office of Public Utility Counsel
(OPUC). The application ~~must~~ shall:

(i)-(vii)(No change.)

(2) Commission processing of application.

(A) **Administrative review.** An application considered under this section is
eligible for administrative review ~~may be reviewed administratively~~ unless
the certificated provider of local exchange telephone service requests the
application be docketed or the presiding officer, for good cause, determines
at any point during the review that the application should be docketed.

(i) The effective date of the Resale ETP designation ~~must~~ shall be no
earlier than 30 days after notice is published in the *Texas Register*.

(ii) The application ~~will~~ shall be ~~reviewed~~ examined for sufficiency. If
the presiding officer concludes that material deficiencies exist in the
application, the applicant ~~will~~ shall be notified within ten working

1 days of the filing date of the specific deficiency in its application.

2 The earliest possible effective date of the application ~~will~~shall be no
3 earlier than 30 days after notice is published in the *Texas Register*.

4 (iii) While the application is being administratively reviewed, the
5 commission staff and OPUC~~the staff of the Office of Public Utility~~
6 ~~Counsel~~ may submit requests for information to the applicant.
7 Three copies of all answers to such requests for information
8 ~~must~~shall be provided to the commission staff and OPUC~~the Office~~
9 ~~of Public Utility Counsel~~ within ten days after receipt of the request
10 by the applicant.

11 (iv) No later than 20 days after the completion of notice, interested
12 persons may provide written comments or recommendations
13 concerning the application to the commission staff.
14 Commission~~The commission~~ staff ~~must~~shall, and OPUC~~the Office~~
15 ~~of Public Utility Counsel~~ may, file with the presiding officer written
16 comments or recommendations regarding the application.

17 (v) No later than 35 days after the proposed effective date of the
18 application, the presiding officer ~~must~~shall issue an order approving,
19 denying, or docketing the application.

20 (B) **Approval of application.** The application will be approved by the
21 presiding officer if it meets all the following requirements:

22 (i)-(iv) (No change.)

1 (C) **Docketing.** If, based on the administrative review, the presiding officer
2 determines that one or more of the requirements has not been met, the
3 presiding officer ~~will~~shall docket the application. The requirements of this
4 subsection may not be waived.

5 (D) **Review of the application after docketing.** If the application is docketed,
6 the effective date of the application ~~will~~shall be automatically suspended
7 until an order is issued in the proceeding granting the application. Three
8 copies of all answers to requests for information ~~must~~shall be filed with the
9 commission within ten days after receipt of the request. Affected persons
10 may move to intervene in the docket, and a hearing on the merits ~~will~~shall
11 be scheduled. A hearing on the merits ~~will~~shall be limited to issues of
12 eligibility. The application ~~will~~shall be processed in accordance with the
13 commission's rules applicable to docketed cases.

14
15 (e) **Relinquishment of ETP designation.** A certificated provider of local exchange telephone
16 service may seek to relinquish its ETP designation. The relinquishment of an ETP
17 designation does not relieve the certificated provider from its obligation to provide Lifeline
18 Service.

19
20 (f) **Relinquishment for non-compliance.** The TUSF administrator ~~must~~shall notify the
21 commission when the TUSF administrator is aware that a ~~resale~~Resale ETP is not in
22 compliance with the requirements of subsection (c) of this section. The commission

1 ~~will~~~~shall~~ revoke the ETP designation of any ~~resale~~~~Resale~~ ETP determined not to be in
2 compliance with subsection (c) of this section.

3
4 (g) **Requirements for annual affidavit of compliance to receive TUSF support.** A
5 ~~resale~~~~Resale~~ ETP serving a rural or non-rural study area ~~must~~~~shall~~ comply with the
6 following requirements for annual compliance for the receipt of TUSF support for Lifeline
7 Services:

8 (1) **Annual Affidavit of Compliance.** On or before September 1 of each year, a
9 ~~resale~~~~Resale~~ ETP that receives disbursements from the TUSF ~~must~~~~shall~~ file with
10 the commission an affidavit certifying that the ETP is in compliance with the
11 requirements for receiving money from the universal service fund and requirements
12 regarding the use of money from each TUSF program from which the
13 telecommunications provider receives disbursements.

14 (2) **Filing Affidavit.** The affidavit used ~~must~~~~shall~~ be the annual compliance affidavit
15 approved by the commission.

16

1 **§26.433. Roles and Responsibilities of 9-1-1 Service Providers.**

2
3 (a) (No change.)

4
5 (b) **Application.** This section applies to ~~aall~~ certificated telecommunications utility
6 ~~(CTU)utilities (CTUs).~~

7
8 (c) (No change.)

9
10 (d) **Requirement to prepare plan and reporting and notification requirements.**

11 (1) **Network Services Plan.** Before providing service, a 9-1-1 network services
12 provider ~~must~~shall prepare and file with the commission a network services plan.
13 The plan ~~must~~shall be updated upon a change affecting a 9-1-1 administrative entity
14 ~~or entities~~, a 9-1-1 database management services provider, or the 9-1-1 network
15 services provider, but not more often than quarterly of each year. Material
16 submitted to the commission ~~in accordance with~~pursuant to this section believed to
17 contain proprietary or confidential information ~~must~~shall be identified as such, and
18 the commission may enter an appropriate protective order. The network services
19 plan ~~must~~shall include:

20 (A) a description of the network services and infrastructure for equipment and
21 software being used predominantly for the purpose of providing 9-1-1
22 services; including ~~but not limited to~~, alternate routing, default routing,

central office identification, and selective routing, ESN, and transfer information;

(B) a schematic drawing and maps illustrating current 9-1-1 network service arrangements specific to each 9-1-1 administrative entity's jurisdiction for each applicable rate center, city, and county. The maps ~~must~~shall show the overlay of rate center, county, and city boundaries; and

(C) (No change.)

(2) **Database Services Plan.** Before providing service, a 9-1-1 database management services provider ~~must~~shall prepare and file with the commission a database services plan. The plan ~~must~~shall be updated upon a change affecting a 9-1-1 administrative entity ~~or entities~~, a 9-1-1 database management services provider, or the 9-1-1 network services provider, but not more often than quarterly of each year. Material submitted to the commission ~~in accordance with~~pursuant to this section believed to contain proprietary or confidential information ~~must~~shall be identified as such, and the commission may enter an appropriate protective order. The database services plan ~~must~~shall include:

(A) (No change.)

(B) a schematic drawing and maps of current 9-1-1 database service arrangements specific to the applicable agency's jurisdiction for each applicable rate center, city, and county. The maps ~~must~~shall show the overlay of rate center, county, and city boundaries;

(C)-(E)(No change.)

(3) **Other notification requirements.** A CTU ~~must~~shall notify ~~each~~shall affected 9-1-1 administrative ~~entity~~entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center.

(e) **Network interoperability and service quality requirements.** ~~To in order to~~ ensure network interoperability and a consistent level of service quality the following standards ~~shall~~ apply.

(1) A CTU operating in the state of Texas ~~must~~shall:

(A)-(B)(No change.)

(C) Provide a P.01 grade of service, or its equivalent as applicable, on the direct dedicated 9-1-1 trunk groups. If a CTU is a 9-1-1 network services provider, the CTU must provide a P.01 grade of service, or its equivalent as applicable, to the PSAP.

~~(D) The 9-1-1 network services provider shall provide a P.01 grade of service, or its equivalent as applicable, to the PSAP.~~

~~(DE)~~ (No change.)

(2) A telecommunications provider operating in the state of Texas ~~must~~shall:

(A) Provide to ~~each~~shall applicable 9-1-1 administrative ~~entity~~entities the name, title, address, and telephone number of the telecommunications provider's 9-1-1 contacts including ~~but not limited to~~, a designated contact person to be available at all times to work with the appropriate 9-1-1 administrative entity or entities, CSEC and the commission to resolve 9-1-1-related

emergencies. CSEC ~~must~~shall be notified of any change to a telecommunications provider's designated 9-1-1 contact personnel within five ~~working~~business days.

(B) Develop a 9-1-1 disaster recovery and service restoration plan with input from the applicable 9-1-1 administrative entity ~~or entities~~, CSEC, and the commission.

(f) **Database integrity.** ~~To~~In order to ensure the consistent quality of database information required for fixed-location 9-1-1 services, the following standards apply.

(1) A CTU operating in the state of Texas ~~must~~shall:

(A) Utilize a copy of the 9-1-1 administrative entity's MSAG or other appropriate governmental source, such as post offices and local governments, to confirm that valid addresses are available for 9-1-1 calls for areas where the 9-1-1 service includes selective routing, or automatic location identification, or both, in order to confirm that valid addresses are available for 9-1-1 calls. This requirement is applicable where the 9-1-1 administrative entity has submitted an MSAG for the service area to the designated 9-1-1 database management services provider. The MSAG must be made available to the CTU at no charge and must be in a mechanized format that is compatible with the CTU's systems. This requirement ~~must~~shall not be construed as a basis for denying installation of basic telephone service, but as a process to minimize entry of erroneous records into the 9-1-1 system.

(B)-(D) No change.

(2) A 9-1-1 database management services provider operating in the state of Texas ~~must~~shall:

(A) Provide copies of the ~~MSAG~~MSAG(s) for ~~each~~the 9-1-1 administrative entity ~~the 9-1-1 database management services provider~~entities it serves to any CTU authorized to provide local exchange service within the jurisdiction of those 9-1-1 administrative entities. The 9-1-1 database management services provider ~~must~~shall make all updates to the MSAG electronically available to CTUs within 24 hours of ~~the~~update by the 9-1-1 administrative entity.

(B) Upon receipt of written confirmation from the appropriate CTU, delete inaccurate subscriber information within 24 hours for deletions of fewer than 100 records. For deletions of 100 records or more, the database management service provider ~~must~~shall delete the records as expeditiously as possible within a maximum time frame of 30 calendar days.

(g) **Cost recovery.** A CTU ~~is prohibited from charging~~may not charge a 9-1-1 administrative entity ~~for~~, through tariffed or non-tariffed charges, ~~for~~the preparation and transfer of files from the CTU's service order system to be used in the creation of 9-1-1 call routing data and 9-1-1 ALI data.

(h) No change.

(i) **Migration of 9-1-1 Service.** Unless otherwise determined by the commission, nothing in this rule, any interconnection agreement, or any commercial agreement may be interpreted

1 to impair a 9-1-1 administrative entity's authority to migrate to newer functionally
2 equivalent IP-based 9-1-1 systems and/or NG9-1-1 systems, or to require the removal of
3 unnecessary direct 9-1-1 dedicated trunks, circuits, databases, or functions.

4 (1) For purposes of this subsection, "unnecessary direct dedicated 9-1-1 trunks" means
5 those dedicated 9-1-1 trunks that generally would be part of a local interconnection
6 arrangement but for: the CTU's warrant in writing that the direct dedicated 9-1-1
7 trunks are unnecessary and all 9-1-1 traffic from the CTU will be accommodated
8 by another 9-1-1 service arrangement that has been approved by the appropriate 9-
9 1-1 administrative entity ~~or entities~~; and written approval from the appropriate 9-1-
10 1 administrative entity ~~or entities~~ accepting the CTU's warrant. A 9-1-1 network
11 services provider or CTU presented with such written documentation from the CTU
12 and the appropriate 9-1-1 administrative entity ~~must~~ shall rely on the
13 warrant of the CTU and the appropriate 9-1-1 administrative entities.

14 (2) Paragraph (1) of this subsection is intended to promote and ensure collaboration so
15 that 9-1-1 service architecture and provisioning modernization can proceed
16 expeditiously for the benefit of improvements in the delivery of 9-1-1 emergency
17 services. Paragraph (1) of this subsection ~~does not~~ is not intended to require or
18 authorize a 9-1-1 administrative entity's rate center service plan specifications or a
19 9-1-1 network architecture deviation that causes new, material cost shifting
20 between telecommunications providers or between telecommunications providers
21 and 9-1-1 administrative entities. Examples of such a deviation ~~include~~ would be
22 points of interconnection different from current LATA configurations and requiring

provisioning of the 9-1-1 network with a similar type deviation that may involve new material burdens on competition or the public interest.

(j) **9-1-1 Service Agreement.**

(1) A CTU that provides local exchange service to end users must execute a separate 9-1-1 service agreement with each appropriate 9-1-1 administrative entity and collect and remit required 9-1-1 emergency service fees to the appropriate authority in accordance with~~pursuant to~~ such a 9-1-1 service agreement.

(2) A CTU that provides resold local exchange service to end users must execute a separate 9-1-1 service agreement with each appropriate 9-1-1 administrative entity and collect and remit required 9-1-1 emergency service fees to the appropriate authority in accordance with~~pursuant to~~ such a 9-1-1 service agreement.

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 ____ DAY OF SEPTEMBER 2023 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ANDRIANA GONZALEZ**



Public Utility Commission of Texas

INSTRUCTIONS FOR THE APPLICATION OR AMENDMENT OF A SERVICE PROVIDER CERTIFICATE OF OPERATING AUTHORITY OR A CERTIFICATE OF OPERATING AUTHORITY

A **sworn** application should be submitted to:

Central Records Filing Clerk
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7180

An Application consists of a title page, an affidavit, and the required, properly completed questions. The Applicant ~~must~~shall also file the Application electronically as directed by the Commission's Procedural Rules, which can be found on the Commission's web-site. ~~Seven copies (an original and six copies) of the Application should be submitted and should meet the following requirements:~~

- ~~• The original copy shall not be hole punched, tabbed, bound or stapled.~~
- ~~• Each of the six copies should be three hole punched with a tab before each numbered question and response.~~

An Application must include:

- On the Title Page, the control number where the Application was filed; and
- On each page of the Application, the Applicant's name and a page number. ~~The docket/project number (if known) should appear on the Title Page and the Applicant's name and a page number should appear on each page of the Application.~~

All responses to questions shall be in a truthful manner. The Applicant must promptly amend the SPCOA or the COA when substantive changes occur by filing ~~seven copies (an original and six copies) of~~ the amendment with Central Records in the established docket.

If the Application information is not subject to disclosure under Texas Government Code §552.001 *et seq.*, the Applicant may label that information confidential and file it in accordance with Procedural Rule §22.71~~(d)~~; citing the applicable provisions of the Texas Government Code. If you have any questions concerning the filing of confidential information, contact Central Records (512) 936-7180.



This Application is a multipurpose application. The Applicant may file for multiple amendments within the same application. **All Questions listed in the “Update Responses as Necessary” column must be responded to with either updated detailed information or “NO CHANGE”.** In your Application, **delete** all application questions **not listed as necessary for in one of the two columns below.** (See Chart below).

This Application is a format, not a form, so add or drop spaces and lines as needed. Attachments must be labeled. Please keep attachments to a minimum, providing the responses directly below the question as much as possible. Failure to provide a complete, truthful, or responsive answer to any question may result in a denial or a delay in the processing of the Application. Do not file these instructions with this Application.

Application Type	Required Responses	Update Responses as Necessary
New SPCOA Application	Title Page (TP), Affidavit (AF) 1–17	
New COA Application	TP, AF, 1–10, & 12–17	
Re-Qualification SPCOA Application	TP, AF, 1–17	
Re-Qualification COA Application	TP, AF, 1–10, & 12–17	
Name Change Amendment	TP, AF, 1, 2(a, b, c, e, h, i), 3, <u>9(b)</u> , & 13	2(d, f, g), <u>9(b)</u>
Certification Relinquishment	TP, AF, 1, 2(a, b, c, e, h, i), 3, <u>9(b)</u> , 13, & 18-21	
Change in Ownership / Control	TP, AF, 1, 2(a, b, c, e, f, g, h, i), <u>9(b)</u> , 13, 14, 16, & 17	2(d) & 3–12, & 15
Change in Ownership between Two Existing SPCOA/COA Holders	TP, AF, 1, 2(a, b, c, e, h, i), 3, <u>9(b)</u> , & 13	TP, AF, 1–17 as Directed
Change in Service Area	TP, AF, 1, 2(a, b, c, e, h, i), 7, <u>9(b)</u> , 13, 14, 16, & 17	2(d, f, g), 3–6, & 8–12, & 15
Service Discontinuation	TP, AF, 1, 2(a, b, c, e, h, i), 3, <u>9(b)</u> , 13, & 18	
Change in Type of Provider	TP, AF, 1, 2(a, b, c, e, f, g, h, i), 4-6, <u>9(b)</u> , 13, 14, 16, & 17	3 & 7–12, & 15
Corporate Restructuring	TP, AF, 1, 2(a, b, c, e, f, g, h, i), <u>9(b)</u> , 13, 14, 16, & 17	2(d), & 3–12, & 15



Public Utility Commission of Texas

1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326
512 / 936-7000 • (Fax) 936-7003
Web Site: www.puc.state.tx.us

TITLE PAGE

APPLICATION FOR CERTIFICATION, RE-QUALIFICATION, OR AMENDMENT TO A SERVICE PROVIDER CERTIFICATE OF OPERATING AUTHORITY OR A CERTIFICATE OF OPERATING AUTHORITY

DOCKET/PROJECT NO. _____

APPLICANT(s): 1. _____
2. _____

Authorized Representative for this Application:

NAME: _____

TITLE: _____

ADDRESS: _____

TELEPHONE: _____

FAX: _____

EMAIL ADDRESS: _____

Regulatory Representative:

NAME: _____

TITLE: _____

ADDRESS: _____

TELEPHONE: _____

FAX: _____

EMAIL ADDRESS: _____

Complaint Representative:

NAME: _____

TITLE: _____

ADDRESS: _____

TELEPHONE: _____

FAX: _____

EMAIL ADDRESS: _____

AFFIDAVIT

STATE OF _____ §

§

COUNTY OF _____ §

1. My name is _____ I am
_____ of the Applicant _____.

2. I swear or affirm that I have personal knowledge of the facts stated in this Application for a Service Provider Certificate of Operating Authority or a Certificate of Operating Authority (Select one), that I am competent to testify to them, and that I have the authority to make this Application on behalf of the Applicant. I further swear or affirm that all of the statements and representations made in this Application for a Service Provider Certificate of Operating Authority or a Certificate of Operating Authority (Select one) are true and correct. I swear or affirm that the Applicant understands and will comply with all requirements of law applicable to a Service Provider Certificate of Operating Authority or a Certificate of Operating Authority (Select one).

Signature

Typed or Printed Name

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 20____.

Notary Public In and For the
State of _____

My commission expires: _____

1. Check only one of the following Requests:

(a)

_____ New SPCOA Application

_____ Application

Amending SPCOA No. _____

_____ New COA Application

_____ Application

Amending COA No. _____

(b) If you are filing an amendment, check one or more of the following as requests made in this amendment filing:

_____ Name Change Amendment

_____ Certification Relinquishment

_____ Change in Ownership/Control

_____ Service Discontinuation

_____ Change in Service Area

_____ Change in Type of Provider

_____ Corporate Restructuring

_____ Other

(c) Provide a summary explanation of all items checked in “b” above.

2. Provide a description of the Applicant, which ~~includes~~ shall include the following:

(a) Legal name and all assumed names under which the Applicant conducts business, if any;

(b) Address of principal office and business office;

(c) Principal office/business office telephone number

Fax number

Website address

E-mail address

Toll-free customer service telephone number. *(If the Applicant has not obtained the toll-free customer service telephone number at the time of the Application, the Applicant must commit to obtaining one before beginning business);*

(d) FCC Carrier Identification Code (CIC) or National Exchange Carriers Association (NECA) Operating Carrier Numbers (OCNs), if available;

(e) Form of business in Texas (e.g., corporation, partnership, sole proprietorship), Charter/Authorization number, date business was formed and date change was made (if applicable). Provide the State and date in which the parent company is registered. *(The Commission requires registration with the Secretary of State for all forms of business, except sole proprietorships.)*

(f) A list of the names, titles, phone number and office e-mail address of each director, officer, or partner;

- (g) Name, address, and office address of each of the five largest shareholders, if not publicly traded;
- (h) Legal name of parent company, if any, and a description of its primary business interests; and,
- (i) Legal name of all affiliated companies that are public utilities or that are providing telecommunications services and the states in which they are providing service. Give a description of all affiliates and explain in detail the relationship between the Applicant and its affiliates. An organizational chart should be provided, if available.
3. State the name **and only one name**, in which the Applicant wants the Commission to issue its certificate. Provide the following information from the Applicants registration with the Office of the Secretary of State of Texas or registration with another state or county, as applicable: *(NOTE: If the Applicant is a corporation, the Commission will issue the certificate in either the Applicant's corporate or assumed name, not both. The certificate holder must use only the name approved by the Commission on all bills and advertisements sent to or viewed by the public. Name Changes require Commission Approval as well as Secretary of State Approval.)*
- (a) Requested name:
- (b) Assumed names:
- (c) Texas Secretary of State (or County) file number:
- (d) Texas Comptroller's Tax Identification number:
- (e) Other Applicable certification/file numbers:
- (f) Date the business was registered:
4. (a) Provide a detailed description of the telecommunications services to be provided.
- (b) Indicate with a yes or no response for each item below, whether the Applicant will be providing the following telecommunications services and whether the service will be for business or residential service:
- | | <u>Business</u> | <u>Residential</u> |
|--|-----------------|--------------------|
| _____ POTS (Plain Old Telephone Service) | _____ | _____ |
| _____ ADSL | _____ | _____ |
| _____ ISDN | _____ | _____ |
| _____ HDSL | _____ | _____ |
| _____ SDSL | _____ | _____ |
| _____ RADSL | _____ | _____ |
| _____ VDSL | _____ | _____ |
| _____ Optical Services | _____ | _____ |
| _____ T1-Private Line | _____ | _____ |
| _____ Switch 56 KBPS (KiloBits Per Second) | _____ | _____ |
| _____ Frame Relay | _____ | _____ |

<input type="checkbox"/>	Fractional T1	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Long Distance	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Wireless	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Other (Please Describe): _____		

5. (a) Is the Applicant providing prepaid calling services?
- (b) If yes to (a), provide a yes or no response to the list of telecommunications services below:

<input type="checkbox"/>	Residential Prepaid Local Calling Services
<input type="checkbox"/>	Business Prepaid Local Calling Services
<input type="checkbox"/>	Residential Prepaid Domestic Long Distance Calling Services
<input type="checkbox"/>	Business Prepaid Domestic Long Distance Calling Services
<input type="checkbox"/>	Residential Prepaid International Long Distance Calling Services
<input type="checkbox"/>	Business Prepaid International Long Distance Calling Services

6. (a) Indicate below the type of certification being requested:

<input type="checkbox"/>	Facilities-based, Data, and Resale
<input type="checkbox"/>	Facilities-based and Resale
<input type="checkbox"/>	Resale Only
<input type="checkbox"/>	Data Only – Facilities-based and Resale
<input type="checkbox"/>	Data Only – Resale Only

7. Provide a written description of the exchanges, local access and transportation areas (LATAs), or incumbent local exchange company (ILEC) service areas or attach a scaled map of the geographic area for which the certificate is requested within the State of Texas that the Applicant proposes to serve.

8. Does the Applicant, owner, or any affiliate currently hold a service provider certificate of operating authority (SPCOA), certificate of operating authority (COA), or certificate of convenience and necessity (CCN) for any part of the area covered by this Application?

9. (a) Does the Applicant expect to provide service to customers other than itself and its affiliates?

- (b) Has the Applicant provided one copy of this Application to the Texas Commission on State Emergency Communications (a.k.a. 911 Commission) within 5 days of submitting the application? ~~If you are relinquishing the certificate~~ Have you also sent a copy of the application to all affected 911 entities within 5 days of submitting the application? Please provide proof of these notifications.

(Send copy to Commission on State Emergency Communications, Office of General Counsel at the George H. W. Bush State Office Building, 1801 N. Congress Avenue, Suite 11.100, Austin, Texas 78701-1320, with phone number 512-305-6911, fax number 512-305-6937, and website address <https://www.csec.texas.gov>).

- (c) As part of the Application provided to the 911 Commission and this commission, has the applicant provided the following information concerning its 911 contact person as required in Substantive Rule No. 26.433(e)(2)(a)? (You may provide up to three 911 contacts per company)

Name: _____

Title: _____

Address: _____

Office Number: _____

Fax Number (Optional): _____

Email Address: _____

10. (a) Is the Applicant a municipality?
- (b) Will the Applicant enable a municipality or municipal electric system to offer for sale to the public, directly or indirectly, local exchange telephone service, basic local telecommunications service, switched access service, or any non-switched telecommunications service used to provide connections between customers' premises within an exchange or between a customer's premises and a long distance provider serving the exchange?
11. (a) **APPLICABLE TO SPCOA APPLICANTS ONLY.** Report total intrastate switched access minutes of use for the Applicant, together with its affiliates, for the twelve-month period beginning sixteen months before the first day of the month in which this Application is filed. *(In calculating minutes of use for this question, include minutes of all entities affiliated with the Applicant.)*
- (b) **APPLICABLE TO SPCOA APPLICANTS ONLY.** Identify all affiliates whose minutes of use are included in the calculation required in 12(a).
12. (a) Has the Applicant, its owners, or any affiliate applied for a permit, license, or certificate to provide telecommunications services in any state other than Texas? If yes, identify the affiliates, what permit, license, or certificate they have applied for, and the state(s) in which they have applied.
- (b) Has the Applicant, its owners, or any affiliate ever had a permit, license, or certificate to provide telecommunications services granted by any state, including Texas? If yes, identify the affiliates, what permit, license, or certificate they have

and when they were held and the state(s) in which they are held. Provide an explanation.

- (c) Has the Applicant, its owners, or any affiliate ever had any permit, license, or certificate denied or revoked by any state? If yes, identify the affiliates, what permit, license, or certificate they had revoked, and the state(s) in which they were revoked. Provide an explanation.
 - (d) Has the Applicant, its owners, or any affiliate ever provided telecommunications services in Texas or any other state? If yes, identify the affiliates, what permit, license, or certificate they may have held, and the state(s) in which they provided service.
- 13.
- (a) Any complaint history, disciplinary record and compliance record during the 60 months immediately preceding the filing of the application regarding: the applicant; the applicant's affiliates that provide utility-like services such as telecommunications, electric, gas, water, or cable service; the applicant's principals; and any person that merged with any of the preceding persons. The information should include, but not be limited to, the type of complaint, in which state or federal agency the complaint was made, the status of the complaint, the resolution of the complaint and the number of customers in each state where complaints occurred.
 - (b) Is the Applicant, or the applicant's principals currently under investigation or have the Applicant or its principals been penalized by an attorney general or any state or federal regulatory agency for the violation of any deceptive trade or consumer protection law or regulation? If yes, please explain.
 - (c) Disclose whether any owners, directors, officers, or partners in the organization are convicted felons? Also disclose whether the applicant or applicant's principals have been convicted or found liable for fraud, theft, larceny, deceit, or violations of any securities laws, customer protection laws, or deceptive trade laws in any state. If yes, please explain.
 - (d) Provide the number of customers per state (including Texas) for the past 60 months, for which the Applicant, its parent company, and/or any affiliates are providing telecommunications services.
- 14.
- (a) Provide a detailed description of the Applicant's technical qualifications to provide the local exchange service, basic local telecommunications service, and/or switched access service proposed in this Application.
 - (b) If the Applicant plans to rely upon a consultant to meet the technical qualifications requirements, provide the following information: (1) name, address, and phone

number of consultant, (2) a copy of the contract between the principals and the consultant, (3) consultant's resume or a detailed description of the consultants experience, (4) information regarding any professional registrations or certifications that the consultant holds, (5) percentage of the consultant's time being contracted, and (6) a list of other telecommunications companies served by the consultant and the percentage of time allotted to each company.

- (c) Provide a detailed description or individual resumes setting forth the qualifications of the Applicant's key personnel. Descriptions or resumes shall include (1) **Key Personnel Names**, (2) **Applicant Company Titles**, (3) **Detailed Telecommunications or Related Experience**, and (4) **Years of Experience**.

15. Attach a completed Service Quality Questionnaire.
16. Provide an audited or unaudited balance sheet for the applicants most recent quarter that demonstrates the shareholders' equity required by P.U.C. Subst. R. 26.111(f). The audited balance sheet must include the independent auditor's report. The unaudited balance sheet must include a sworn statement from the executive officer of the applicant attesting to the accuracy, in all material respects, of the information provided in the unaudited balance sheet.
17. Provide a summary of any history of insolvency, bankruptcy, dissolution, merger or acquisition of the applicant or any predecessors in interest during the 60 month immediately preceding this Application.
18. If you are relinquishing your certificate or discontinuing service, provide a copy of the customer notification (minimum of 61 days notice) sent to each customer indicating the intent of the Applicant to discontinue service. Notice shall, at a minimum, contain the following information:
 - (a) The approximate date the Applicant intends to discontinue service(s) or operations.
 - (b) A description of any arrangements that will be made by the Applicant to transfer customers to a carrier of their choice and how, if no choice is made by the customer, the Applicant will transfer the customer to a carrier of last resort.
 - (c) A description of how and when deposits and credits will be returned to customers. And a statement that deposits and credits shall be returned to customers within 60 days of the notification to relinquish certification, or within 30 days of the notification of service(s) discontinuation.

- (d) A statement that any switchover fees shall be paid by the Applicant for customers to be transferred to the carrier of their choice.
- 19. If you are relinquishing your certificate, provide a statement that the Applicant shall notify the Texas Comptroller's Office, Texas Secretary of State, and the administrator of the Texas Universal Service Fund of its Application within 5 days of filing the Application.
- 20. If you are relinquishing your certificate or discontinuing service, provide a statement that the Applicant shall return deposits and credits to the customers.
- 21. If you are relinquishing your certificate, provide a statement that the Applicant shall void all interconnection agreements upon Commission approval of an Application to relinquish certification.

SERVICE QUALITY QUESTIONNAIRE for SPCOA and COA Applicants as required in
Question number 15.

Will the Applicant meet each of the following benchmark service quality standards listed below?
For each "NO" response, please provide an explanation.

YES _____ NO _____ Make one-party line service available upon request to all subscribers of local exchange service.

YES _____ NO _____ Install 95% of primary service orders and 90% of regular service orders within five working days of customer orders, excluding those orders where a later date is requested by the customer.

YES _____ NO _____ Meet 90% of commitments to customers regarding the date of installation of service orders, excepting customer-caused delays.

YES _____ NO _____ Maintain the level of held regrade orders (as defined in Substantive Rule 26.54) at or below one percent of access lines served.

YES _____ NO _____ Answer 85% of toll and assistance operator calls within ten seconds.

YES _____ NO _____ Answer 90% of repair service calls and calls to business offices within 20 seconds.

YES _____ NO _____ Provide dial tone within 3 seconds for 98% of calls.

YES _____ NO _____ Maintain an availability factor for stored program controlled digital and analog switching facilities (local intra-office) at 99.99%, or keep total unscheduled outages below 53 minutes per year.

YES _____ NO _____ Maintain an availability factor for stored program controlled digital and analog switching facilities (local inter-office) at 99.93%, or keep total unscheduled outages below 365 minutes per year.

YES _____ NO _____ Complete 97% of properly dialed tolled calls without encountering failure because of blockages or equipment irregularities.

YES _____ NO _____ Maintain an average monthly rate of customer trouble reports, excluding CPE reports, at or below 6%.

YES _____ NO _____ Clear 90% of out-of-service trouble reports within 8 working hours, except where access to the customer's premises is required and not available or where interruptions are caused by unavoidable casualties and acts of God affecting large groups of customers.

- YES ____ NO ____ Maintain the number of repeated trouble reports on residence and single-line business lines at or below 22% of the total customer trouble reports on those lines.
- YES ____ NO ____ Maintain transmission facilities meeting the requirements of Substantive Rule 26.54, Transmission Requirements.
- YES ____ NO ____ Meet the Commission's continuity-of-service requirements established in Substantive Rule 26.51.
- YES ____ NO ____ Provide 911 emergency telephone service in accordance with Chapters 771 and 772 of the Texas Health and Safety Code, as applicable.
- YES ____ NO ____ Commit to providing equipment that will comply with 911 requirements.
- YES ____ NO ____ Commit to providing at least 1 customer service representative per every 2,500 customers during normal business hours.
- YES ____ NO ____ Commit to providing equipment that is local number portability (LNP) capable.
- YES ____ NO ____ Maintain an emergency operations plan that addresses disaster recovery procedures.
- YES ____ NO ____ Comply with PUC Substantive Rules §26.32 and §26.130 requiring notification of customers about slamming and cramming information on monthly bills.
- YES ____ NO ____ Comply with PUC Substantive Rules §26.31 for customer disclosure.
- YES ____ NO ____ Comply with PUC Substantive Rules §26.122 regarding customer proprietary network information.
- YES ____ NO ____ Comply with applicable portions of Chapter 26, Subchapter B regarding customer service and protection.
- YES ____ NO ____ Comply with anti-discrimination laws on the basis of race, nationality, color, religion, sex, marital status, income level, source of income, or geographic location.
- YES ____ NO ____ Disclose to customer that they may contact the PUC and pursue complaints if the customer and certificate holder cannot resolve the complaint.

PUBLIC UTILITY COMMISSION OF TEXAS



GENERAL INSTRUCTIONS

ANNUAL REPORT FOR SMALL ILECS PURSUANT TO §26.407

Effective _____,
2023~~2018~~

1701 N Congress Ave, P.O. Box 13326, Austin, Texas 78711-3326

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GENERAL INSTRUCTIONS

1. This report form is prescribed for the use of a small incumbent local exchange company (small ILEC), as defined in 16 Tex. Admin. Code (TAC) § 26.407, by the Public Utility Commission of Texas (Commission). The objective of this report is to provide information needed to monitor the earnings and financial condition of small ILECs on a Texas-jurisdictional basis and report each small ILEC's intrastate rate of return for the purposes of determining a continuation of current Small and Rural Incumbent Local Exchange Company Universal Service Plan (SIP) support levels or eligibility for adjustment. Each small ILEC will submit its annual report to the Commission in the form and manner prescribed in this document.

The reported information must be for the 12-month period ending December 31st of the previous year. **The annual report must be filed no later than September 15th of the following year.**
2. Each electing small ILEC must file with the Filing Clerk of Central Records at the Commission offices in Austin, Texas, ~~a copy~~^{three copies} of the printed annual report (excluding instructions) and any attachments. Additionally, each electing small ILEC must file an electronic version of the information contained in the required schedules and general questions. Specific instructions regarding the electronic filing of the report can be found on the Commission's website at <http://www.puc.texas.gov/industry/filings/FilingProceed.aspx>.
3. Unless otherwise indicated, the information required in this annual report form will be taken from the accounts and other records prescribed in Part 32 of the Federal Communications Commission Rules as stated in the Code of Federal Regulations. The definitions and instructions contained in such rules will also apply to this report wherever applicable. However, a query or response in this report regarding a practice or transaction is not to be construed as necessarily indicating conformity to accounting or other pertinent regulations.
5. If relevant audited financial statements are available for the reporting period, such information must be relied upon for purposes of preparing this report.
6. Part 64 on cost allocation standards will be followed in apportioning costs between regulated and nonregulated activities.
7. The Cost Allocation Manual (Part 36 and Part 54 Separations Manual) must be followed to jurisdictionally allocate costs between the intrastate and interstate jurisdictions for "cost" companies.
8. In preparing the report, all instructions must be followed and each question must be answered fully and accurately. The expression "none" or "not applicable" will be given as the answer to any particular inquiry only where the expression truly and completely states the fact. Where a numeric response is required, insert the numeric value "0" as appropriate. All dollar amounts provided in response to questions or schedules must be rounded to the nearest dollar.
9. Unless specifically allowed in the question, references to reports of previous periods or to other reports will not be accepted in lieu of information requested in this report. This report does not replace any other report required by the Commission unless substitution is specifically allowed by the Commission's Substantive Rules.
10. In accordance with 16 TAC §26.71(4), all reports submitted to the Commission must be attested to by an officer or manager of the utility under whose direction the report is prepared, or if under trust or receivership, by the receiver or a duly authorized person, or if not incorporated, by the proprietor, manager, superintendent, or other official in responsible charge of the utility's operation.
11. Any small ILEC filing required or supplemental attachments to its annual report must place those items after the schedules and attestation page. The General Instructions and the Schedule Instructions contained in this packet should not be submitted for filing. Each copy of the annual report should be organized in the following order: (1) cover sheet; (2) general questions; (3) required schedules, including required supplemental

schedules; (4) signature page; (5) required attachments, and (6) supplemental attachments, if any. The cover sheet and signature page are included in the downloadable Microsoft Excel file.

12. If it is necessary to revise any schedule after the initial filing of the report, a new filing must be submitted that contains all schedules as well as three printed copies of the report. The new filing must be labeled "Revised" and include the date of revision. General Question No. 11 must be completed for all revised reports.

INSTRUCTIONS FOR GENERAL QUESTIONS AND SCHEDULES

General Questions

The requested information must be provided.

Schedule I: Summary of Revenues and Expenses

Revenues and expenses must be segregated according to Part 64 related to cost allocation standards.

Revenues and expenses must be aggregated in accordance with Part 32 of the Uniform System of Accounts. (Network Access Revenue (line 3) is also further detailed on Schedule IV.)

The net contribution, which is revenues less operating expenses from Yellow Pages services, if provided by a separate affiliate, must be included in Miscellaneous Revenues.

Line 10a column "g" must be equal to the amount of intrastate universal service fund (USF) revenues recorded on the books for the monitoring period for PURA § 56.025, Federal USF (FUSF) loss recovery. This is consistent with Generally Accepted Accounting Principles of matching revenues with expenses. This amount must be entered as a contra amount.

Line 22 column "g" must equal the amount of interstate USF revenues recorded on the books for the monitoring period for the FUSF support, including any FUSF loss recovery under PURA § 56.025, allocated to the intrastate jurisdiction. This amount must be entered as a contra amount.

Schedule II: Invested Capital

Invested capital must be reported on an end-of-period basis.

Invested capital must be segregated according to Part 64 of the cost allocation standards. A calculation of working cash is not necessary for purposes of this report.

The rate of return measure (line 32) expresses the return from Schedule I as a percentage of total ending invested capital, excluding long term telephone plant under construction, plant held for future use, and telephone plant acquisition adjustments, from Schedule II.

The Earned Return on Equity measure (line 33) will automatically be calculated using data from Schedules I, II, and V.

Schedule III: Federal Income Taxes

Federal income taxes must be calculated on an intrastate basis. Line 1 and lines 3 through 12 (with the exception of line 10) must correspond to the same categories on Schedule I.

On line 10, the cell for interest expense (cell J20) contains a formula that calculates the amount of interest expense as the weighted cost of debt (from Schedule V) multiplied by invested capital (from Schedule II). For investor-owned utilities that complete Schedule V, this formula is appropriate and the cell should be allowed to automatically calculate the amount of interest expense. However, for cooperatives, the formula

in cell J20 is not applicable, because cooperatives are not required to complete Schedule V. Therefore, in order for cooperatives to be able to enter the correct amount of interest expense, cooperatives should override the formula in cell J20 by manually entering the correct amount of interest expense directly into the cell.

Additional Depreciation (line 15) refers to the differences between book and tax that were not normalized (no deferred taxes were recorded) and were, instead, flowed-through to the ratepayers previously. These flow-through items created a type of permanent difference that must be added back to the tax calculation. If an amount is included in the federal income tax calculation, the supporting calculations must also be included.

The amortization of investment tax credits must occur ratably or over the life of the associated assets.

The amortization of excess deferred taxes must be reflected using the amount booked during the period and must reflect the method ordered by the Commission. If a small ILEC has not received an order from the Commission concerning the amount of excess deferred taxes, it must reflect the amortization using the average rate assumption method.

The small ILEC's applicable tax rate must be inserted on line 19.

Schedule IV: Network Access Service Revenue

Intrastate access services revenue must be reported for each of the categories listed on this schedule. The booked subtotal for Network Access Service Revenue must equal the amount on Schedule I, line 3, column (g). Schedule I, line 3, column (g) is a cell reference from Schedule IV. Interstate USF or interstate high cost assistance are not reported on Schedule IV, because these amounts are reported on Schedule I. State high cost assistance is reported on Schedule IV. Network access services revenue received from other local exchange carriers for access service must be included either in the access rate element categories on Schedule IV or in the "Other" category on Schedule IV.

The "Billed Intrastate" column must include revenue that is billed by or on behalf of the reporting local exchange carrier.

Schedule V: Weighted Average Cost of Capital for Investor-Owned Utilities

Only investor-owned utilities should complete Schedule V.

The capital structure of the utility as of the end of the monitoring period must be provided. It is not necessary to estimate the current cost of equity. Instead, the small ILEC must use the allowed return from the last Texas rate case. If the small ILEC has not had a rate case in Texas, or has elected to be regulated under PURA Chapter 58 or 59, the line should be left blank or the small ILEC may insert an estimate.

Schedule VI: Historical Financial Statistics

The requested financial data for the monitoring period and the four preceding fiscal years must be provided. If audited financial statements are available for the periods requested, the financial data provided should be based on that audited data.

Schedule VII: Proposed Company Adjustments

The schedule must be provided even if there are no proposed adjustments. The blank should be marked with "n/a" if there is not a response. If the small ILEC has material adjustments to any of the information provided in the report, a full description of each adjustment must be provided with supporting workpapers, if any, as a supplemental attachment to the annual report. However, the schedules included in the report should not reflect the proposed adjustments. Printed schedules reflecting additional explanatory information related to the proposed adjustments may be included as a supplemental attachment to the annual report.

Schedule VIII: Schedule of Compensation for Officers, Directors and Family Members of Officers and Directors Compensation. For Investor-Owned Utilities - Provide Compensation for Owners and Former Owners and Family

Members of Owners and Former Owners

Compensation allocated to intrastate regulated operations of the small ILEC for all officers and directors for the monitoring period must be reported. Compensation paid to family members of the small ILEC's officers or directors, if any, must also be included in Schedule VIII. For investor-owned utilities, compensation for owners and former owners of the company and family members of the owners and former owners must be provided. "Compensation" means earned income consisting of base salary, wages, incentive plan payments, and taxable fringe benefits attributable to the small ILEC and either paid directly or through an affiliate transaction. "Family member" means parents and grandparents, brothers and sisters, spouse, and children and grandchildren. If a small ILEC does not have five employees who meet these definitions, the small ILEC should mark "n/a" for the remaining responses. If a small ILEC has more than five employees who meet these definitions, additional lines should be added as necessary.

Report Information for any other highly compensated employee that may not be designated as an officer of the company.

Schedule IX: Report of Utility Affiliate Transactions

Affiliate transactions must be reported for the monitoring period. "Affiliate" is defined in 16 TAC §26.5(5). If a small ILEC has no affiliate transactions to report, the response should be marked as "n/a".

A small ILEC's transactions with family members of the small ILEC's officers, directors, owners or former owners, if any, must also be included in Schedule IX. "Family member" is defined in the instructions for Schedule VIII.

Schedule X: Operational Information

A small ILEC must provide a single itemized number for (1) total operating revenues, (2) total operating expenses, (3) total operating tax expense, (4) rate of return, (5) total invested capital, and (6) network access revenue.

Such information must match or be reconciled (in Supplemental Schedule 2, as described below) to the final amounts provided under Schedules I, II, and IV.

A copy of Schedule X must be filed publicly. The public version of Schedule X must be filed concurrently with the annual report.

Supplemental Schedule 1: Comments and Footnotes

This schedule is to be used for providing comments or footnotes pertaining to other schedules in the report. The first page of this schedule must be provided even if there are no comments or footnotes. The response should be indicated as "n/a" if information is not provided.

Supplemental Schedule 2: Reconciliation of Schedule X with Schedules I, II, or IV

In the event the information provided under Schedule X does not match the operational information filed publicly, this schedule is to be used for filing reconciliations related to the information provided in Schedule X where (1) such information is either missing from Schedule X or (2) where information provided in Schedule X does not match information provided in Schedules I, II, or IV.

The following files are not convertible:

54589 Annual Report for Small ILECs and
Schedules (PFP).xlsm

Please see the ZIP file for this Filing on the PUC Interchange in order to access these files.

Contact centralrecords@puc.texas.gov if you have any questions.