

The Public Utility Commission of Texas (commission) proposes an amendment to §26.412, relating to Lifeline Service and Link Up Service Programs. The proposed amendment will facilitate automatic enrollment of individuals qualifying for Lifeline Service and Link Up Service pursuant to Public Utility Regulatory Act §55.012 and §55.015 requirements. Project Number 21329 has been assigned to this proceeding.

Ms. Janis Ervin, Senior Utilities Analyst, Telecommunications Division, has determined that for each year of the first five-year period the proposed section is in effect, there will be no fiscal implications for the commission as a result of enforcing or administering this section. However, the Texas Department of Human Services (TDHS) has estimated that it will incur automation-related implementation costs of \$212,585 in state funds. This estimate is based on the additional systems programming hours needed to produce an initial electronic file of eligible consumers for distribution to the eligible telecommunications carriers, as well as for periodic updates. There will be no other fiscal implications for state or local government as a result of enforcing or administering this section.

Ms. Janis Ervin has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be an expansion of current Lifeline Service and Link Up Service subscribership. There will be no effect on small businesses or micro-

businesses as a result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Janis Ervin has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

The commission staff will conduct a public hearing on this rulemaking if properly requested under Government Code §2001.029(b).

Comments on the proposed amendment (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Reply comments may be submitted within 45 days after publication.

The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed section. The commission will consider the costs and benefits in deciding whether to adopt the section. All comments should refer to Project Number 21329.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2000) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and

jurisdiction; and specifically PURA §55.012 and §55.015 which require the commission to adopt rules providing for automatic enrollment of eligible consumers to receive Lifeline Service.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 55.012 and 55.015.

§26.412. Lifeline Service and Link Up Service Programs.

- (a) Scope and Purpose. Through this rule the commission seeks to extend Lifeline Service and Link Up Service to all qualifying end users by establishing a procedure for automatic enrollment.~~Application.~~ This section applies to eligible telecommunications carriers as defined by §26.418 of this title (relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds ~~(FUSF)~~) and §26.417 of this title (relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF)).
- (b) **Lifeline Service and Link Up Service.** Each eligible telecommunications carrier shall provide Lifeline Service and Link Up Service as provided by this section. A consumer with an income at or below 125% of the federal poverty guidelines, or receiving benefits from any of the following programs qualifies for Lifeline and Link Up Services: Medicaid, food stamps, Supplemental Security Income (SSI), federal public housing assistance, or Low Income Energy Assistance Program (LIHEAP). A consumer eligible for Lifeline Service is automatically eligible for Link Up Service. However, a consumer may qualify for and receive Link Up Service independently of Lifeline Service. Nothing in this section shall prohibit a consumer otherwise eligible to receive Lifeline Service and/or Link Up Service from obtaining and using telecommunications equipment or services designed to aid such consumer in utilizing qualifying telecommunications services.

(c) **Lifeline Service Program.** Lifeline Service is a retail local service offering available to qualifying low-income consumers. Eligible telecommunications carriers provide qualifying end users with a waiver of the federal subscriber line charge (SLC) and discounts totaling \$10.50 per monthly bill and are reimbursed from federal and state universal service funds.

(1) **Provision of Lifeline Service.** Lifeline Service shall be provided according to the following requirements.

(A) (No change.)

(B) Toll blockinglimitation.

(i) Toll blockinglimitation requirements. The eligible telecommunications carrier shall offer toll blockinglimitation to all qualifying low-income consumers at the time such consumers subscribe to Lifeline Service. If the consumer elects to receive toll blocking,limitation, that service shall become part of the consumer's Lifeline Service and the consumer's monthly bill will not be increased by the toll blocking charge.

(ii) Waiver. The commission may grant a waiver of the requirement of clause (i) of this subparagraph upon a finding that exceptional circumstances prevent an eligible telecommunications carrier from providing toll blocking,limitation. The period for the waiver shall not extend beyond the time that the commission deems necessary for that

eligible telecommunications carrier to complete network upgrades to provide toll ~~blocking~~^{limitation} services.

(C) Disconnection of service.

(i) (No change.)

(ii) Disconnection when qualification has ended. Upon notice by the Texas Department of Human Services (TDHS) that an end user no longer qualifies for Lifeline Service, the eligible telecommunications carrier shall provide a direct mail notice to the end user advising that the Lifeline Service discount will be discontinued 30 days from the date of the notice unless the end user notifies the eligible carrier that an error has been made. If the end user notifies the carrier of an error, the Lifeline Service discount will be continued for an additional 30 days to allow the end user adequate time to correct records and obtain an affirmation of eligibility from TDHS. If the end user has not obtained an affirmation of eligibility from TDHS by the end of the 60-day period, Lifeline Service may be discontinued and the end user's service and billing will continue at applicable tariffed rates. Waiver. The commission may grant a waiver of clause (i) of this subparagraph if the eligible telecommunications carrier can demonstrate that:

~~(I) it would incur substantial costs in complying with this requirement;~~

~~(II) it offers toll limitation to its qualifying low income consumers without charge; and~~

~~(III) telephone subscribership among low income consumers in the eligible telecommunications carrier's service area is greater than or equal to the national subscribership rate for low income consumers with an income below the poverty level for a family of four residing in the state.~~

(iii) Disconnection of customers who have self-certified. Individuals not receiving benefits through TDHS programs, but who have met Lifeline and Link Up income qualifications in subsection (b) of this section, may be required to verify their status with an affidavit. Eligible telecommunications carriers may require such verification annually and notify customers receiving Lifeline Service by direct mail that the accompanying affidavit must be submitted within 60 days to continue the Lifeline Service. If the customer does not respond within 60 days, the eligible telecommunications carrier must provide the affidavit by direct mail with a notice advising that if it is not returned within 30 days

~~the Lifeline Service will cease and service will continue at applicable
tariffed rates. Review by Federal Communications Commission (FCC).~~

~~(I) — An eligible telecommunications carrier may file a petition for
review of the commission decision pursuant to clause (ii) of this
subparagraph with the FCC within 30 days of that decision.~~

~~(II) — If the commission has not acted on a petition to waive the
requirement of clause (i) of this subparagraph within 30 days of
the date of the filing of the waiver petition, the eligible
telecommunications carrier may file the petition with the FCC
on the 31st day after the initial filing date.~~

~~(iv) — Subsequent waiver requests. — An eligible telecommunications carrier
may reapply for the waiver set forth in clause (ii) of this subparagraph.~~

(D) Service deposit prohibition.

~~(i) — Service deposit requirements. — If the qualifying low-income consumer
voluntarily elects toll blocking from the eligible telecommunications
carrier, the — An eligible telecommunications carrier may not collect a
service deposit pursuant to §26.24 of this title (relating to Credit
Requirements and Deposits), in order to initiate Lifeline Service, ~~if the
qualifying low income consumer voluntarily elects toll blocking from the
eligible telecommunications carrier.~~~~

~~(ii) Waiver. If a waiver for providing toll blocking has been granted pursuant to subparagraph (B)(ii) of this paragraph, an eligible telecommunications carrier may charge a service deposit.~~

(2) **Lifeline support.**

(A) (No change.)

(B) Recovery of support amounts.

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

(iii) Additional state reduction with federal matching.

(I) An eligible telecommunications carrier shall be entitled to recover support from the Texas Universal Service Fund to recover the reduction amount required by subparagraph (A)(iii)(I) of this paragraph. ~~An eligible telecommunications carrier that is also an incumbent local exchange company (ILEC) as defined by §26.5 of this title (relating to Definitions) that offered, as of June 1, 1997, a tariffed \$3.50 Lifeline Service rate discount in addition to the \$3.50 waiver of the federal SLC, must reduce rates for services determined appropriate by the commission by an amount equivalent to the amount of support it is eligible to receive under this subclause. If such ILEC does not reduce its toll and access rates pursuant~~

~~to this subclause, it shall not be eligible to receive support under
this subclause.~~

(II) (No change.)

(C) Application of support amounts.

~~(i) An eligible telecommunications carrier that is also an incumbent local exchange company (ILEC) as defined by §26.5 of this title (relating to Definitions) that offered, as of June 1, 1997, a tariffed \$3.50 Lifeline Service rate discount in addition to the \$3.50 waiver of the federal SLC, must reduce rates for services determined appropriate by the commission by an amount equivalent to the amount of support it is eligible to receive under this subclause. If such ILEC does not reduce its toll and access rates pursuant to this subclause, it shall not be eligible to receive support under this subclause.~~

~~(ii)⊕~~ Eligible telecommunications carriers that charge the federal SLC or equivalent federal charges shall apply the \$3.50 federal baseline Lifeline support to waive a qualified low-income consumer's federal SLC. The state-approved reductions of \$1.75 and \$3.50 and the additional federally approved reduction of \$1.75 shall be applied to reduce the monthly intrastate end user charges paid by the qualifying low-income consumers.

~~(iii)~~(ii) Eligible telecommunications carriers that do not charge the federal SLC or equivalent federal charges shall apply the \$3.50 federal baseline Lifeline support amount, plus the state-approved reductions of \$1.75 and \$3.50 and the additional federally approved reduction of \$1.75 to reduce their lowest tariffed residential rate for the supported services and charge qualified low-income consumers the resulting amount.

~~(iv)~~(iii) The monthly discounted residential rate for qualified low-income consumers may not be reduced below \$2.50.

(d) **Link Up Service Program.** This is a program certified by the FCC that provides a qualifying low-income consumer with the following assistance:

(1) **Services.**

(A) (No change.)

(B) A qualifying low-income consumer may receive a deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges not assessed the consumer shall be for connection charges of up to \$200 that are deferred for a period not to exceed one year. Charges assessed for commencing service include any charges that the carrier customarily assesses to connect subscribers to the network. These charges do not include any permissible security deposit

requirements. Deferred payment of these charges will not be subject to late fees or additional service fees.

(2) **Qualifying low-income consumer choice.** A qualifying low-income consumer is eligible for ~~may choose one or~~ both of the services ~~programs~~ set forth in paragraphs (1)(A) and (B) of this subsection.

(3) **Limitation on receipt.** An eligible telecommunications carrier's Link Up Service ~~program~~ shall allow a qualifying low-income consumer to receive the benefit of Link Up Service on subsequent occasions ~~the Link Up program for a second or subsequent time~~ only for a principal place of residence with an address different from the residence address at which the Link Up Service ~~assistance~~ was provided previously.

(e) **Obligations of the consumer,** ~~Texas Department of Human Services (TDHS), and the~~ eligible telecommunications carrier.

(1) **Obligations of the consumer.** Consumers who meet the low income requirement for qualification but do not receive benefits under the programs listed in subsection (b) of this section may provide their local eligible telecommunications carrier with an affidavit of self-certification for Lifeline and/or Link Up Service benefits. Consumers receiving benefits under the programs listed in subsection (b) of this section and who have telephone service will be subject to the automatic enrollment procedures of TDHS unless they provide their local carrier with a request to be excluded from Lifeline and/or

Link Up Service. Consumers receiving benefits under the programs listed in subsection (b) of this section ~~Consumers may apply for Lifeline Service and Link Up Service by completing and filing an application with TDHS. Consumers who are eligible for Lifeline Service and Link Up Service~~ and who do not have telephone service must additionally initiate a request for service from an~~their serving~~ eligible telecommunications carrier providing local service in their area.

~~(2) —~~ **Obligations of TDHS.** TDHS shall review the consumer's application form and shall **determine** if the consumer meets the eligibility criteria. TDHS shall provide each eligible telecommunications carrier with an initial list of consumers eligible for Lifeline Service and Link Up Service and shall provide an updated list to each eligible telecommunications carrier on a semi-annual basis.

~~(2)~~**(3) Obligations of eligible telecommunications carriers.**

(A) Lifeline Service.

(i) The eligible telecommunications carrier shall provide Lifeline Service to all eligible consumers identified by TDHS within its service area in accordance with ~~if the existing service of those consumers meets the qualifications set forth in subsection (d)(1) of this section.~~

(1) The eligible telecommunications carrier shall identify those consumers on the initial list(s) provided by TDHS ~~list~~ to whom it is providing telephone service and shall begin reduced billing for

those qualifying low-income consumers in accordance with the timeline filed with the commission pursuant to subsection (i) of this section determine if the existing telephone service qualifies.

(II) If the eligible telecommunications carrier is not providing telephone service to the eligible consumer, the eligible telecommunications carrier shall advise the consumer by direct mail, in accordance with the timeline filed with the commission pursuant to subsection (i) of this section, of their eligibility and of the steps necessary for the consumer to enroll in Lifeline Service. The eligible telecommunications carrier shall advise the eligible consumer by direct mail that persons choosing not to take the necessary steps to enroll will not receive Lifeline Service.

(III) The eligible consumer shall not be charged for changes in telephone service arrangements that are made in order to qualify for Lifeline Service, or for service order charges associated with transferring the account into Lifeline Service. If the eligible consumer changes the telephone service or initiates new service, the eligible telecommunications carrier shall begin reduced billing

at the time the change of service becomes effective or at the time new service is established.

~~(ii) If the existing telephone service does not qualify, the eligible telecommunications carrier shall advise the eligible consumer by direct mail of changes necessary to satisfy Lifeline criteria. The eligible telecommunications carrier shall advise the eligible consumer by direct mail that persons choosing not to make necessary changes to their telephone service arrangements will not receive Lifeline Service and that the eligible consumer shall not be charged for changes in telephone service arrangements that are made in order to qualify for Lifeline Service, or for service order charges associated with transferring the account into Lifeline Service. If the eligible consumer changes the telephone service to qualifying services or initiates new qualifying service, the eligible telecommunications carrier shall begin reduced billing at the time the change of service becomes effective or at the time new service is established.~~

(ii)(iii) Upon receipt of the monthly update provided by TDHS under subsection (e)(2) of this section, the eligible telecommunications carrier shall begin reduced billing for those qualifying low-income consumers subscribing to services within 30 days of receipt of the monthly

~~update. The eligible telecommunications carrier shall notify TDHS on a semi-annual basis of changes in the status of its Lifeline Service consumers.~~

~~(iii) The eligible telecommunications carrier shall provide an affidavit of self-certification to all customers who may meet the low income criteria of subsection (b) of this section but do not receive benefits from TDHS and shall provide such affidavit by direct mail at the customer's request. Upon receipt of the customer's signed affidavit the eligible telecommunications carrier shall initiate Lifeline and/or Link Up Service within 30 days. The eligible telecommunications carrier may require annual verification pursuant to the procedure in subsection (c)(1)(C)(iii) of this section.~~

(B) Link Up Service. The eligible telecommunications carrier shall provide Link Up Service to all qualifying low-income consumers as described in this section~~identified by TDHS within its service area, who have initiated a request for service pursuant to subsection (e)(1) of this section.~~ Upon receipt of the self-certification affidavit, or the TDHS initial automatic enrollment list, the eligible telecommunications carrier will initiate contact, by direct mail or telephone, with the qualifying consumer to determine any necessary information required to accomplish a request for new service. If the consumer does not

respond to the eligible telecommunications carrier's initial contact within 30 days
the eligible telecommunications carrier shall send a direct mail notice to the
consumer advising that the opportunity for Link Up Service shall continue but
the consumer will be required to contact the eligible telecommunications
provider to initiate an order for new service.

~~(C) Qualifying low income consumer certification. An eligible telecommunications carrier shall obtain from the qualifying low income consumer that consumer's signature on a document certifying under penalty of perjury that the consumer receives benefits from one of the following: Medicaid, food stamps, Supplemental Security Income, federal public housing assistance, or Low Income Energy Assistance Program, and shall identify the program(s) from which that consumer receives benefits. On the same document, a qualifying low income consumer must also agree to notify the eligible telecommunications carrier if that consumer ceases to participate in the program(s) identified.~~

(f) **Memorandum of Understanding.** Pursuant to a Memorandum of Understanding (MOU)
between the commission and TDHS to facilitate automatic enrollment of eligible consumers in
Lifeline and/or Link Up Services, the commission and TDHS will undertake the following
obligations.

(1) **Commitments of the commission.**

(A) The commission will provide TDHS with a listing of eligible telecommunications carriers in the state. The listing will include the carriers' mailing addresses, a list of the counties served by each carrier, and a carrier contact for Lifeline and Link Up Services.

(B) On a monthly basis, the commission will provide electronic updates to the listing set out in subparagraph (A) of this paragraph, including changes, additions or deletions to the listing.

(C) The commission will work with TDHS to develop informational material on Lifeline and Link Up Services for distribution to eligible consumers through TDHS' field offices.

(D) The commission will provide TDHS with other information available to the commission that will assist TDHS in implementing an automatic enrollment system for eligible consumers.

(2) **Commitments of TDHS.**

(A) TDHS will identify all active recipients of the benefits in subsection (b) of this section who are therefore eligible for Lifeline and Link Up Service.

(B) By January 2, 2000, provided that TDHS has received a signed confidentiality agreement pursuant to subsection (l) of this section, TDHS will provide each eligible telecommunications carrier with an initial list of eligible consumers for

automatic enrollment in Lifeline Service and Link Up Service in an electronic format.

(C) The initial list set out in subparagraph (B) of this paragraph will list those eligible consumers with telephone numbers first, followed by all other eligible consumers sorted by zip code. For each eligible consumer, the list shall include the name, address, county and telephone number, if available. TDHS and an eligible telecommunications carrier may agree on another format to the initial list.

(D) TDHS will provide electronic updates to the initial list, in the same format, to each eligible telecommunications carrier on a monthly basis. The monthly updates will include new eligible consumers and consumers who are no longer eligible.

(E) TDHS will work with the commission to develop informational material on Lifeline and Link Up Services for distribution to eligible consumers through TDHS' field offices.

(g)Ⓡ **Tariff requirement.** Each carrier seeking designation as an eligible telecommunications carrier shall file a tariff to implement Lifeline Service and Link Up Service, or revise its existing tariff for compliance with this section and with applicable law, prior to filing its application for designation as an eligible telecommunications carrier. Within 60 days of the effective date of this section all carriers currently offering Lifeline and Link Up Service shall file a revised tariff in compliance

with this section. No other revision, addition, or deletion unrelated to Lifeline Service and Link Up Service shall be contained in the tariff application.

(h) Review of affidavits of self-certification, letters and notices provided by eligible telecommunications carriers. Within 30 days of the effective date of this section, eligible telecommunications carriers must provide drafts of the standard affidavit of self-certification for low income consumers and any proposed letters, notices or informational material, including text of its directory notice, to be used pursuant to this section for commission review and approval prior to use.

(i) Implementation timeline. Within 30 days of the effective date of this section, all eligible telecommunications carriers must file with the commission, a proposed timeline for the implementation of subsection (e)(2)(A) of this section. The proposed timeline shall not extend beyond 180 days after the effective date of this section.

(j)(g) Reporting requirements.

(1) Within 180 days after the effective date of this section, all eligible telecommunications carriers must file with the commission a report detailing all of their efforts to contact eligible consumers, including, but not limited to, the number of direct mail pieces sent

pursuant to subsection (e)(2)(A)(i)(II) of this section and the number of corresponding responses.

~~(2)~~**(4) Texas Universal Service Fund (TUSF).** An eligible telecommunications carrier providing Lifeline Service pursuant to this section shall report information as required by the commission or the TUSF administrator, including but not limited to the following information.

(A) Initial reporting requirements. An eligible telecommunications carrier shall provide the commission and the TUSF administrator with information demonstrating that its Lifeline plan meets the requirements of this section.

(B) Monthly reporting requirements. An eligible telecommunications carrier shall report monthly to the TUSF administrator the total number of qualified low-income consumers to whom Lifeline Service was provided for the month by the eligible telecommunications carrier.

(C) Other reporting requirements. An eligible telecommunications carrier shall report any other information required by the commission or the TUSF administrator, including any information necessary to assess contributions to and disbursements from the TUSF.

~~(3)~~**(2) Federal Lifeline Service Program.** An eligible telecommunications carrier shall file the following information with the administrator of the Federal Lifeline Program:

- (A) information demonstrating that the eligible telecommunications carrier's Lifeline plan meets the criteria set forth in 47 Code of Federal Regulations Subpart E (relating to Universal Service Support for Low-Income Consumers);
- (B) the number of qualifying low-income consumers served by the eligible telecommunications carrier;
- (C) the amount of state assistance; and
- (D) other information required by the administrator of the Federal Lifeline Program.

(k) **Notice of Lifeline and Link Up Services.** An eligible telecommunications provider shall provide notice of Lifeline and Link Up Services in any directory it distributes to its customers and shall provide an annual bill message advising customers of the availability of Lifeline and Link Up Services.

(l) **Confidentiality agreements.** Eligible telecommunications carriers must execute a confidentiality agreement with TDHS prior to receiving the eligible consumer list pursuant to subsection (f)(2)(B) of this section. The agreement will specify that client information is released by TDHS to the carrier for the sole purpose of providing Lifeline and/or Link Up Service to eligible consumers and that the information cannot be released by the carrier or used by the carrier for any other purpose.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 16th DAY OF AUGUST 2000 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**