

PROJECT NO. 35629

RULEMAKING RELATING TO § PUBLIC UTILITY COMMISSION
INCREASE IN LIFELINE §
DISCOUNT AMOUNT § OF TEXAS

PROPOSAL FOR PUBLICATION OF AMENDMENT TO §26.412
AS APPROVED AT THE AUGUST 14, 2008 OPEN MEETING

The Public Utility Commission of Texas (commission) proposes an amendment to §26.412, relating to Lifeline Service Program. The amendment increases the Lifeline Discount Amount (LDA) for eligible customers of Eligible Telecommunications Providers (ETPs) operating in the service areas of AT&T Texas, Verizon, Embarq, and Windstream, or their successors. Specifically, the amendment increases the LDA by an amount equal to 25% of any increases to residential basic network service rates in regulated exchanges of the four companies mentioned above as a result of the settlement agreement approved by the commission in Docket Number 34723, *Petition for Review of Monthly Line Support Amounts from the Texas High Cost Universal Service Plan, Pursuant to PURA §56.031 and P.U.C. SUBST. R. 26.403*. Project Number 35629 is assigned to this proceeding.

Stephen Mendoza, Rate Analyst for the Rate Regulation Division, has determined that for the first year the amendment is in effect, there will be a small fiscal impact to the State to administer the amendment. The impact will be due to a rewrite of software code for the input database. This will be a one-time cost occurrence. For the remaining four-year period the amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Mendoza has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be a 25% reduction in any rate increases for LDA eligible customers in regulated exchanges of the four companies mentioned above due to the settlement agreement approved by the commission in Docket Number 34723. There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendment. Therefore, no regulatory flexibility analysis is required. The persons who are required to comply with the amendment are the ETPs operating in the incumbent local exchange (ILEC) service areas of AT&T Texas, Verizon, Embarq, and Windstream. The direct impact of the amendment on these ETPs – the loss of revenue from customers – will be offset by revenue that the ETPs receive from the Texas Universal Service Fund. There may be a small economic cost to ETPs who are required to comply with the amendment, resulting from the cost of changing the reimbursement amounts for the LDA in their billing systems. The ETPs will also benefit, however, because the higher LDA should permit them to maintain low-income customers that might discontinue basic telephone service when basic network service rates rise.

Mr. Mendoza 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 (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029, at the commission's

offices located in the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, on Thursday, September 25, 2008, at 10:00 a.m. The request for a public hearing must be received within 21 days after publication.

Comments on the proposed amendment may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 21 days after publication. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of the proposed rule. 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 35629.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2008) (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 §56.021, which provides the commission the authority to adopt and enforce rules relating to the reimbursement of telecommunications carriers for the provision of lifeline service.

Cross Reference to Statutes: Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 and §56.021.

§26.412. Lifeline Service Program.

(a) – (e) (No change.)

(f) **Lifeline support and recovery of support amounts.**

(1) **Lifeline discount amounts.** All Lifeline providers shall provide the following Lifeline discounts to all eligible Lifeline customers:

(A) – (B) (No change.)

(C) Additional state reduction ~~with federal matching~~ – A Lifeline provider shall give a qualifying low-income customer an additional state-approved reduction of up to a maximum of \$3.50 in the monthly amount of intrastate charges; provided, however, that beginning January 1, 2009, Lifeline providers operating in the ILEC service areas of AT&T Texas, GTE Southwest Incorporated d/b/a Verizon Southwest (Verizon), Central Telephone Company d/b/a Embarq (Central), United Telephone Company d/b/a Embarq (United), and Windstream Communications Southwest (Windstream), or their successors, (collectively, Settling ILECs) shall provide, in addition, a reduction (Settled Discount) equal to 25% of any actual increase by a Settling ILEC to its residential basic network service rate that (1) occurs in a Settling ILEC's Public Utility Regulatory Act (PURA) Chapter 58 regulated exchanges and (2) is consistent with the Unanimous Settlement Agreement filed on April 8, 2008, and adopted by the commission in its Order filed on April 25, 2008 in Docket Number

34723, Petition for Review of Monthly Line Support Amounts from the Texas High Cost Universal Service Plan, Pursuant to PURA §56.031 and P.U.C. SUBSTANTIVE R. §26.403 (Settled Increase). A Settling ILEC shall file with the commission tariffs implementing a Settled Discount at the time it files for a Settled Increase.

(i) The effective date of a Settled Discount shall have the same effective date as the corresponding Settled Increase.

(ii) A Settled Discount shall be calculated by a Settling ILEC on the basis of the weighted average rate increase. The calculation of the weighted average rate increase shall use a denominator that is the sum of all PURA Chapter 58 regulated residential lines with Settled Increases, and shall use a numerator that is the sum of each product that results from multiplying the number of PURA Chapter 58 regulated residential lines affected by each discrete Settled Increase times the corresponding Settled Increase. The weighted average rate increase calculation shall be included in the tariff filing made to implement the discount.

(iii) A Settled Discount shall be provided to all qualifying Lifeline customers who are located in the ILEC service area of the Settling ILEC that has implemented the corresponding Settled Increase.

(D) – (E) (No change.)

(2) **Lifeline support amounts.** The following Lifeline providers shall receive support amounts for the Lifeline discounts outlined in paragraph (1) of this subsection:

(A) (No change.)

(B) ETP – An ETP shall receive state support of up to a maximum of \$3.50; provided, however, that ETPs operating in the ILEC service areas of the Settling ILECs shall receive additional state support equal to the discount prescribed by paragraph (1)(C) of this subsection. If an ETP has been designated as an ETC, then the certificated provider would also receive support amounts outlined in paragraph (A) of this subsection.

(C) Resale ETP – A resale ETP shall receive Lifeline Service support equal to the following state and federal amounts as long as the Lifeline Service was not purchased as a wholesale offering from the ILEC. Any Lifeline Service purchased as a wholesale offering from the ILEC includes the Lifeline Discount and is therefore not eligible to receive an additional discount. The Texas Universal Service Fund (TUSF), regardless of whether the Lifeline Service Discount is state or federally mandated, will provide all Lifeline Service support.

(i) – (iv) (No change.)

(v) A resale ETP shall receive state-mandated support of up to a maximum of \$3.50; provided, however, that resale ETPs operating in the ILEC service areas of the Settling ILECs shall receive additional state

support equal to the discount prescribed by paragraph (1)(C) of this subsection.

(D) (No change.)

(g) Obligations of the customer and the Lifeline provider.

(1) No change.

(2) Obligations of Lifeline providers.

(A) (No change.)

(B) Tariff Requirement. Each Lifeline provider shall file a tariff to implement Lifeline Service, or revise its existing tariff for compliance with this section and with applicable law, including subsection (f)(1)(C) of this section.

(C) – (E) (No change.)

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 15th DAY OF AUGUST 2008 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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