

PROJECT NO. 42600

RULEMAKING PROCEEDING TO	§	PUBLIC UTILITY COMMISSION
AMEND 16 TEX. ADMIN. CODE §§	§	
26.403, 26.404, AND 26.405 TO	§	OF TEXAS
ADDRESS CERTAIN PROVISIONS OF	§	
THE TUSF INCLUDING ELIGIBILTIY	§	
OF CERTAIN LINES AND NUMBER	§	
OF BUSINESS LINES RECEIVING	§	
SUPPORT	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §§26.403, 26.404, AND 26.405
AS APPROVED AT THE MARCH 24, 2016 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §26.403, relating to the Texas High Cost Universal Service Plan (THCUSP); §26.404, relating to the Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan; §26.405, relating to Financial Need for Continued Support. The proposed amendments will clarify the identification of eligible residential and business lines and will clarify the criteria that define a service location or address. Project Number 42600 is assigned to this proceeding.

Ms. Liz Kayser, Section Director, Competitive Markets 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 state or local government as a result of enforcing or administering the section.

Ms. Kayser 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 to improve the administration of the Texas Universal Service Fund by clarifying the identification of eligible residential and business lines and clarifying the criteria that define a service location or address.

There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing this section. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Kayser 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. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by April 22, 2016. Sixteen copies of comments to the proposed amendment are required to be filed pursuant to §22.71(c) of this title. Reply comments may be submitted by May 2, 2016. Comments should be organized in a manner consistent with the organization of the proposed amendments. 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 42600.

These amendments proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (West 2007 & Supp. 2015) (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 §56.021 which requires the commission to adopt and enforce rules to establish the Texas Universal Service Fund to assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas.

Cross Reference to Statutes: PURA §14.002 and §56.021.

§26.403. Texas High Cost Universal Service Plan (THCUSP).

(a) (No change.)

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

- (1) **Business line** -- The telecommunications facilities providing the communications channel that serves a single-line business customer's service address. For the purpose of this definition, a single-line business line is one to which multi-line hunting, trunking, or other special capabilities do not apply. [For a line served by an ILEC, a business line is a line served pursuant to the ILEC's business service tariff or a package that includes such a tariffed service. For a line served by an ETP](#)

other than an ILEC, to qualify as a business line, the service must be provided pursuant to a customer application, subscriber agreement, or contract entered into by a public or private organization of any character, or a representative or agent of such entity, irrespective of the person or entity in actual possession of the telephone device.

- (2) **Eligible line** -- A residential line or a single-line business line over which an ETP provides the service supported by the THCUSP through its own facilities, purchase of unbundled network elements (UNEs), or a combination of its own facilities and purchase of UNEs. An eligible line may be a business line or a residential line but shall not be both.
- (3) (No change.)
- (4) **Residential line** -- The telecommunications facilities providing the communications channel that serves a residential customer's service address. For the purpose of this definition, a residential line is one to which multi-line hunting, trunking, or other special capabilities do not apply. A line that qualifies as a business line shall not qualify as a residential line.
- (5) **Service Address** -- For the purposes of this section, a business or residential customer's service address is the unique physical street address, including any suite or unit number, where a line is served to a customer; if no unique physical street address is available, then a physical 911 address may be used; if no unique physical street address or physical 911 address is available, then the business or residential customer's billing address shall be used. GPS coordinates shall not be used as a part or in lieu of a unique physical street address, physical 911 address, or customer

billing address. For the purposes of this definition, a physical 911 address is an address transmitted to the emergency service providers by an ETP with respect to a line that is not stated in GPS coordinates.

(c)-(f) (No change.)

(g) **Reporting requirements.** An ETP that receives support pursuant to this section shall report the following information:

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

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

§26.404. Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan.

(a) (No change.)

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

(1) **Business line** -- The telecommunications facilities providing the communications channel that serves a single-line business customer's service address. For the purpose of this definition, a single-line business line is one to which multi-line hunting, trunking, or other special capabilities do not apply. For a line served by an ILEC, a business line is a line served pursuant to the ILEC's business service tariff or a package that includes such a tariffed service. For a line served by an ETP other than an ILEC, to qualify as a business line, the service must be provided pursuant to a customer application, subscriber agreement, or contract entered into by a public or private organization of any character, or a representative or agent of such entity, irrespective of the person or entity in actual possession of the telephone device.

(2)~~(1)~~ **Eligible line** -- A residential line or a single-line business line over which an ETP provides the service supported by the Small and Rural ILEC Universal Service Plan (SRILEC USP) through its own facilities, purchase of unbundled network elements (UNEs), or a combination of its own facilities and purchase of UNEs. An eligible line may be a business line or a residential line but shall not be both.

~~(3)~~~~(2)~~ **Eligible telecommunications provider (ETP)** -- A telecommunications provider designated by the commission pursuant to §26.417 of this title (relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF)).

~~(4)~~ **Residential line** -- The telecommunications facilities providing the communications channel that serves a residential customer's service address. For the purpose of this definition, a residential line is one to which multi-line hunting, trunking, or other special capabilities do not apply. A line that qualifies as a business line shall not qualify as a residential line.

~~(5)~~ **Service Address** -- For the purposes of this section, a business or residential customer's service address is the unique physical street address, including any suite or unit number, where a line is served to a customer; if no unique physical street address is available, then a physical 911 address may be used; if no unique physical street address or physical 911 address is available, then the business or residential customer's billing address shall be used. GPS coordinates shall not be used as a part or in lieu of a unique physical street address, physical 911 address, or customer billing address. For the purposes of this definition, a physical 911 address is an address transmitted to the emergency service providers by an ETP with respect to a line and that is not stated in GPS coordinates.

~~(6)~~~~(3)~~ **Small incumbent local exchange company** -- An incumbent local exchange (ILEC) that qualifies as a "small local exchange company" as defined in the Public Utility Regulatory Act (PURA), §53.304(a)(1).

(c) (No change.)

(d) **Service to be supported by the Small and Rural ILEC Universal Service Plan.** The Small and Rural ILEC Universal Service Plan shall support the provision by ETPs of basic local telecommunications service as defined in §26.403(d) of this title (relating to Texas High Cost Universal Service Plan (THCUSP)) and is limited to those services carried on all residential lines and the first five single-line business lines at a business customer's service address for which a flat rate plan is an available option.

(e)-(g) (No change.)

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

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

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

§26.405. Financial Need for Continued Support.

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

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

- (1) **Business line** -- The telecommunications facilities providing the communications channel that serves a single-line business customer's service address. For the purpose of this definition, a single-line business line is one to which multi-line hunting, trunking, or other special capabilities do not apply. For a line served by an ILEC, a business line is a line served pursuant to the ILEC's business service tariff or a package that includes such a tariffed service. For a line served by an ETP other than an ILEC, to qualify as a business line, the service must be provided pursuant to a customer application, subscriber agreement, or contract entered into by a public or private organization of any character, or a representative or agent of such entity, irrespective of the person or entity in actual possession of the telephone device.
- (2) **Eligible line** -- A residential line or a single-line business line over which an ETP provides the service supported by the THCUSP or SRILEC USP through its own facilities, purchase of unbundled network elements (UNEs), or a combination of its own facilities and purchase of UNEs. An eligible line may be a business line or a residential line but shall not be both.
- (3) (No change.)

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

(5) Service Address -- For the purposes of this section, a business or residential customer's service address is the unique physical street address, including any suite or unit number, where a line is served to a customer; if no unique physical street address is available, then a physical 911 address may be used; if no unique physical street address or physical 911 address is available, then the business or residential customer's billing address shall be used. GPS coordinates shall not be used as a part or in lieu of a unique physical street address, physical 911 address, or customer billing address. For the purposes of this definition, a physical 911 address is an address transmitted to the emergency service providers by an ETP with respect to a line that is not stated in GPS coordinates.

(d)-(i) (No change.)

(j) Service to be supported. The services to be supported pursuant to the section are subject to the same definitions and limitations as those 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.

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 24th DAY OF MARCH 2016 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**

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