

# *Public Utility Commission of Texas*

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## **Memorandum**

TO: Interested Parties

FROM: Liz Kayser, Section Director, Competitive Markets Division  
A.J. Smullen, Attorney, Legal Division

DATE: December 10, 2015

RE: Project No. 42600 – Rulemaking Proceeding to Amend P.U.C. SUBST. Rs. 26.403, 26.404, and 26.405 to Address Certain Provisions of the TUSF Including Eligibility of Certain Lines and Number of Business Lines Receiving Support

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This rulemaking project was initiated to clarify certain provisions of the TUSF including eligibility of certain lines and the number of business lines that can receive support. The attached strawman proposes language to accomplish this objective. Staff's strawman proposes to amend P.U.C. SUBST. Rs. 26.403, 26.404, and 26.405 to address these provisions.

The new language proposed in §§26.403 and 26.405 would clarify the terms: (1) business line; (2) eligible line; and (3) residential line. Additionally, the proposed language would also provide a definition for service address. The new language proposed in §26.404 would clarify the term eligible line and it would provide a definition for: (1) business line; (2) residential line; and (3) service address. Additionally, the proposed language in this section would specify the number of business lines that are eligible for support.

Interested parties are invited to submit written comments on this strawman by filing sixteen copies of such comments with Central Records no later than 3:00 p.m. on Monday, January 4, 2016. Parties are invited to file reply comments by filing sixteen copies of such responses with Central Records no later than 3:00 p.m. on January 14, 2016. All comments should reference Project No. 42600 and should be limited to 20 pages.

Questions concerning this notice should be referred to Liz Kayser, Competitive Markets Division, at (512) 936-7390 or [liz.kayser@puc.texas.gov](mailto:liz.kayser@puc.texas.gov).

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

- (a) **Purpose.** This section establishes guidelines for financial assistance to eligible telecommunications providers (ETPs) that serve the high cost rural areas of the state, other than study areas of small and rural incumbent local exchange companies (ILECs), so that basic local telecommunications service may be provided at reasonable rates in a competitively neutral manner.
- (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. To qualify as a business line, the subscriber agreement or contract must be 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) **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.** -- 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; 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 may 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.
- (c) **Application.** This section applies to telecommunications providers that have been designated ETPs by the commission pursuant to §26.417 of this title.
- (d) **Service to be supported by the THCUSP.** The THCUSP shall support basic local telecommunications services provided by an ETP in high cost rural areas of the state. Local measured residential service, if chosen by the customer and offered by the ETP, shall also be supported.
- (1) **Initial determination of the definition of basic local telecommunications service.** Basic local telecommunications service shall consist of the following:
    - (A) flat rate, single party residential and business local exchange telephone service, including primary directory listings;
    - (B) tone dialing service;
    - (C) access to operator services;
    - (D) access to directory assistance services;
    - (E) access to 911 service where provided by a local authority;
    - (F) telecommunications relay service;
    - (G) the ability to report service problems seven days a week;
    - (H) availability of an annual local directory;
    - (I) access to toll services; and
    - (J) lifeline service.
  - (2) **Subsequent determinations.**

- (A) Initiation of subsequent determinations.
    - (i) The definition of the services to be supported by the THCUSP shall be reviewed by the commission every three years from September 1, 1999.
    - (ii) The commission may initiate a review of the definition of the services to be supported on its own motion at any time.
  - (B) Criteria to be considered in subsequent determinations. In evaluating whether services should be added to or deleted from the list of supported services, the commission may consider the following criteria:
    - (i) the service is essential for participation in society;
    - (ii) a substantial majority, 75% of residential customers, subscribe to the service;
    - (iii) the benefits of adding the service outweigh the costs; and
    - (iv) the availability of the service, or subscription levels, would not increase without universal service support.
- (e) **Criteria for determining amount of support under THCUSP.** The commission shall determine the amount of per-line support to be made available to ETPs in each eligible wire center. The amount of support available to each ETP shall be calculated using the base support amount as of the effective date of this section and applying the annual reductions as described in this subsection. As used in this subsection, “basic local telecommunications service” refers to services available to residential customers only, and “exchange” or “wire center” refer to regulated exchanges or wire centers only.
- (1) **Determining base support amount available to ILEC ETPs.** The initial annual base support amount for an ILEC ETP shall be the annualized monthly THCUSP support amount for the month preceding the effective date of this section, less the 2011 amount of support disbursed to the ILEC ETP from the federal universal service fund for High Cost Loop, High Cost Model, Safety Net Additive, and Safety Valve components of the frozen high-cost support as determined by the Universal Service Administration Company pursuant to 47 C.F.R. §54.312(a). The initial per-line monthly support amount for a wire center shall be the per-line support amount for the wire center for the month preceding the effective date of this section, less each wire center’s pro rata share of one-twelfth of the 2011 amount of support disbursed to the ILEC ETP from the federal universal service fund for High Cost Loop, High Cost Model, Safety Net Additive, and Safety Valve components of the frozen high-cost support determined by the Universal Service Administration Company pursuant to 47 C.F.R §54.312(a). The initial annual base support amount shall be reduced annually as described in paragraph (3) of this subsection.
  - (2) **Determination of the reasonable rate.** The reasonable rate for basic local telecommunications service shall be determined by the commission in a contested case proceeding. To the extent that an ILEC ETP’s existing rate for basic local telecommunications service in any wire center is less than the reasonable rate, the ILEC ETP may, over time, increase its rates for basic local telecommunications service to an amount not to exceed the reasonable rate. The increase to the existing rate shall not in any one year exceed an amount to be determined by the commission in the contested case proceeding. An ILEC ETP may, in its sole discretion, accelerate its THCUSP reduction in any year by as much as 10% and offset such reduction with a corresponding local rate increase in order to produce rounded rates. In no event shall any such acceleration obligate the ETP to reduce its THCUSP support in excess of the total reduction obligation initially calculated under paragraph (3) of this subsection.
  - (3) **Annual reductions to THCUSP base support and per-line support recalculation.** As part of the contested proceeding referenced in paragraph (2) of this subsection, each ILEC ETP shall, using line counts as of the end of the month preceding the effective date of this rule, calculate the amount of additional revenue that would result if the ILEC ETP were to charge the reasonable rate for basic local telecommunications service to all residential customers for those services where the price, or imputed price, are below the reasonable rate. Lines in exchanges for which an application for deregulation is pending as of June 1, 2012 shall not be included in this calculation. If the application for deregulation for any such exchanges subsequently is denied by the commission, the ILEC ETP shall, within 20 days of the final order denying such application, submit revised calculations including the lines in those exchanges for which the application for deregulation was denied. Without regard to whether an ILEC ETP increases its rates for basic local telecommunications

service to the reasonable rate, the ILEC ETP's annual base support shall be reduced on January 1 of each year for four consecutive years, with the first reduction occurring on January 1, 2013. The ETP's annual base support amount shall be reduced by 25% of the additional revenue calculated pursuant to this paragraph in each year of the transition period. This reduction shall be accomplished by reducing support for each wire center served by the ETP proportionally.

- (4) **Portability.** The support amounts established pursuant to this section are applicable to all ETPs and are portable with the customer.
- (5) **Limitation on availability of THCUSP support.**
  - (A) THCUSP support shall not be provided in a wire center in a deregulated market that has a population of at least 30,000.
  - (B) An ILEC may receive support from the THCUSP for a wire center in a deregulated market that has a population of less than 30,000 only if the ILEC demonstrates to the commission that the ILEC needs the support to provide basic local telecommunications service at reasonable rates in the affected market. An ILEC may use evidence from outside the wire center at issue to make the demonstration. An ILEC may make the demonstration for a wire center before or after submitting a petition to deregulate the market in which the wire center is located.
- (6) **Total Support Reduction Plan.** Within 10 days of the effective date of this section, an ILEC may elect to participate in a Total Support Reduction Plan (TSRP) as prescribed in this subsection, by filing a notification of such participation with the commission. The TSRP would serve as an alternative to the reduction plan prescribed in paragraph (3) of this subsection. The TSRP will be implemented as follows:
  - (A) For an ILEC making this election, the ILEC shall reduce its THCUSP funding in accordance with paragraph (3) of this subsection with the exception that THCUSP reductions due to exchange deregulation may be credited against the electing ILEC's annual reduction obligation in the calendar year immediately following such deregulation.
  - (B) In no event shall an electing ILEC seek or receive THCUSP funding after January 1, 2017 even if it would otherwise be entitled to such funding as of this date.
- (f) **Support Reduction.** Subject to the provisions of §26.405(f)(3) of this title (relating to Financial Need for Continued Support), the commission shall adjust the support to be made available from the THCUSP according to the following criteria:
  - (1) For each ILEC that is not electing under subsection (e)(6) of this section and that served greater than 31,000 access lines in this state on September 1, 2013, or a company or cooperative that is a successor to such an ILEC, the monthly per-line support that the ILEC is eligible to receive for each exchange on December 31, 2016 from the THCUSP is reduced:
    - (A) on January 1, 2017, to 75 percent of the level of support the ILEC is eligible to receive on December 31, 2016;
    - (B) on January 1, 2018, to 50 percent of the level of support the ILEC is eligible to receive on December 31, 2016; and
    - (C) on January 1, 2019, to 25 percent of the level of support the ILEC is eligible to receive on December 31, 2016.
  - (2) An ILEC subject to this subsection may file a petition to show financial need for continued support, pursuant to §26.405(f)(1) of this title, on or before January 1, 2019.
- (g) **Reporting requirements.** An ETP that receives support pursuant to this section shall report the following information:
  - (1) **Monthly reporting requirement.** An ETP shall report the following to the TUSF administrator on a monthly basis:
    - (A) the total number of eligible lines for which the ETP seeks TUSF support; and
    - (B) a calculation of the base support computed in accordance with the requirements of subsection (d) of this section.
  - (2) **Quarterly filing requirements.** An ETP shall file quarterly reports with the commission showing actual THCUSP receipts by study area.

- (A) Reports 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 30<sup>th</sup> calendar day after the end of the calendar quarter reporting period.
  - (B) Each ETP's reports 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 pursuant to paragraph (3) of this subsection shall be publicly available.
- (3) **Annual reporting requirements.** An ETP shall report annually to the TUSF administrator that it is qualified to participate in the THCUSP.
- (4) **Other reporting requirements.** An ETP shall report any other information that is required by the commission ~~of~~or the TUSF administrator, including ~~and~~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) **Purpose.** This section establishes guidelines for financial assistance to eligible telecommunications providers (ETPs) that provide service in the study areas of small and rural ILECs in the state so that basic local telecommunications service or its equivalent may be provided at reasonable rates in a competitively neutral manner.
- (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. To qualify as a business line, the subscriber agreement or contract must be 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 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)(-) **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.** -- 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; 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 may 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.
  - (6)(-) **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) **Application.**
- (1) Small or rural ILECs. This section applies to small ILECs, as defined in subsection (b) of this section, and to rural ILECs, as defined in §26.5 of this title (relating to Definitions), that have been designated ETPs.
  - (2) Other ETPs providing service in small or rural ILEC study areas. This section applies to telecommunications providers other than small or rural ILECs that provide service in small or rural ILEC study areas that have been designated ETPs.
- (d) **Service to be supported by the Small and Rural ILEC Universal Service Plan.**
- (1) 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 flat rate residential lines and the first five flat rate single-line business lines at a business customer's location.
- (e) **Criteria for determining amount of support under Small and Rural ILEC Universal Service Plan.** The commission shall determine the amount of per-line support to be made available to ETPs in each eligible study area. - The amount of support available to each ETP shall be calculated using 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 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 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 shall be determined by the commission in a contested case proceeding. An increase to an existing rate 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 shall be determined in the contested case proceeding.
  - (3) **Annual reductions to the 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 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 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 shall be reduced by 25% of the additional revenue calculated pursuant to this paragraph in each year of the transition period, unless specified otherwise pursuant to paragraph (2)(B) of this subsection. This reduction 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) **Small and Rural ILEC Universal Service Plan support payments to ETPs.** The TUSF administrator shall disburse monthly support payments to ETPs qualified to receive support pursuant to this section.
- (1) **Payments to small or rural ILEC ETPs.** The payment to each small or rural ILEC ETP 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 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 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, 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, 2017 from the SRILEC USP is reduced:
    - (A) on January 1, 2018, to 75 percent of the level of support the ILEC ETP is eligible to receive on December 31, 2017;
    - (B) on January 1, 2019, to 50 percent of the level of support the ILEC ETP is eligible to receive on December 31, 2017; and
    - (C) on January 1, 2020, to 25 percent of the level of support the ILEC ETP is eligible to receive on December 31, 2017.
  - (2) An ILEC ETP subject to this subsection may file a petition to show financial need for continued support, pursuant to §26.405(f)(1) of this title, on or before January 1, 2020.

- (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) **Monthly reporting requirement.** An ETP shall report the following to the TUSF administrator on a monthly basis:
    - (A) the total number of eligible lines for which the ETP seeks SRILEC USP support; and
    - (B) a calculation of the base support computed in accordance with the requirements of subsection (e) of this section.
  - (2) **Quarterly filing requirements.** An ETP shall file quarterly reports with the commission showing actual SRILEC USP receipts by study area.
    - (A) Reports 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 30<sup>th</sup> calendar day after the end of the calendar quarter reporting period.
    - (B) Each ETP's reports 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 pursuant to paragraph (3) of this subsection shall be publicly available.
  - (3) **Annual reporting requirements.** An ETP shall report annually to the TUSF administrator that it is qualified to participate in the Small and Rural ILEC Universal Service Plan.
  - (4) **Other reporting requirements.** An ETP shall report any other information that is required by the commission or the TUSF administrator, including any~~and~~ information necessary to assess contributions and disbursements from the TUSF.

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

- (a) **Purpose.** This section establishes criteria to demonstrate financial need for continued support for the provision of basic local telecommunications service under the Texas High Cost Universal Service Plan (THCUSP) and the Small and Rural Incumbent Local Exchange Company Universal Service Plan (SRILEC USP). This section also establishes the process by which the commission will evaluate petitions to show financial need and will set new monthly per-line support amounts.
- (b) **Application.** This section applies to an incumbent local exchange company (ILEC) that is subject to §26.403(f) of this title (relating to the Texas High Cost Universal Service Plan (THCUSP)) or §26.404(g) of this title (relating to the Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan).
- (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. To qualify as a business line, the subscriber agreement or contract must be 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) **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 single-line 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.** -- 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; 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 may 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.
- (d) **Determination of financial need.**
- (1) **Criteria to determine financial need.** For each exchange that is served by an ILEC ETP filing a petition pursuant to subsection (f)(1) of this section, the commission 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 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 FCC Legacy High Cost support for service provided within that exchange; and
    - (ii) offers basic local service or broadband service of 3 megabits per second down and 768 kilobits per second up using wireline-based technology using either its own facilities or a combination of its own facilities and purchased unbundled network elements (UNEs).
  - (B) Using Version 7 of the National Broadband Map, the commission 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 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 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 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 National Broadband Map with regard to whether an unsubsidized wireline voice provider competitor offers service within a particular census block.
- (e) **Criteria for determining amount of continued support.** In a proceeding conducted pursuant to subsection (f) of this section, the commission shall set new monthly per-line support amounts for each exchange served by a petitioning ILEC ETP. The new monthly per-line support amounts shall be effective beginning with the first disbursement following a commission order entered pursuant to subsection (f)(2) of this section, except that they shall not be effective earlier than January 1, 2017 for an exchange with service supported by the THCUSP or earlier than January 1, 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.** For each exchange that is served by an ILEC ETP that has filed a petition 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 shall reduce the monthly per-line support amount to zero. For each exchange that is served by an ILEC ETP that has filed a petition pursuant to subsection (f)(1) of this section and which is not included in the petition, the commission 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 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 shall set a monthly per-line support amount according to the following criteria.
    - (A) The initial monthly per-line support amounts for each exchange shall be equal to:
      - (i) the amount that the ILEC ETP was eligible to receive on December 31, 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, 2017 for an ILEC ETP that receives support from the SRILEC USP and that has not filed a request pursuant to subsection (g) of this section; or
      - (iii) the new monthly per-line support amounts calculated pursuant to subsection (g) of this section for an ILEC ETP that has filed a request pursuant to subsection (g) of this section.

- (B) Initial monthly per-line support amounts for each exchange 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 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 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 shall not exceed:
  - (i) the monthly per-line support that the ILEC ETP was eligible to receive on December 31, 2016, if the petition was filed before January 1, 2016;
  - (ii) 75 percent of the monthly per-line support that the ILEC ETP was eligible to receive on December 31, 2016, if the petition was filed on or after January 1, 2016, and before January 1, 2017;
  - (iii) 50 percent of the monthly per-line support the ILEC ETP was eligible to receive on December 31, 2016, if the petition was filed on or after January 1, 2017, and before January 1, 2018; or
  - (iv) 25 percent of the monthly per-line support that the ILEC ETP was eligible to receive on December 31, 2016, if the petition was filed on or after January 1, 2018, and before January 1, 2019.
- (D) For each exchange with service supported by the SRILEC USP, monthly per-line support shall not exceed:
  - (i) the monthly per-line support that the ILEC ETP was eligible to receive on December 31, 2017, if the petition was filed before January 1, 2017;
  - (ii) 75 percent of the monthly per-line support that the ILEC ETP was eligible to receive on December 31, 2017, if the petition was filed on or after January 1, 2017, and before January 1, 2018;
  - (iii) 50 percent of the monthly per-line support the ILEC ETP was eligible to receive on December 31, 2017, if the petition was filed on or after January 1, 2018, and before January 1, 2019; or
  - (iv) 25 percent of the monthly per-line support that the ILEC ETP was eligible to receive on December 31, 2017, if the petition was filed on or after January 1, 2019, and before January 1, 2020.
- (E) An ILEC ETP may only be awarded continued support for the provision of service in exchanges with service that is eligible for support from the THCUSP or SRILEC USP at the time of filing of a petition pursuant to subsection (f)(1) of this section.
- (F) **Portability of support.** The support amounts established pursuant to this section are applicable to all ETPs and are portable with the customer.

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

- (1) **Petition to determine financial need.** An ILEC ETP that is subject to §26.403(f) 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 may only file one petition pursuant to this subsection. A petition filed pursuant to this subsection shall include the information necessary to reach the determinations specified in this subsection.
  - (B) An ILEC ETP filing a petition pursuant to this subsection shall provide notice as required by the presiding officer pursuant to §22.55 of this title (relating to Notice in Other Proceedings). At a minimum, notice shall be published in the *Texas Register*.
  - (C) A petition filed pursuant to this subsection 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) Plant-specific operations expense;
  - (ii) Plant non-specific operations expense;
  - (iii) Customer operations expense;
  - (iv) Corporate operations expense;
  - (v) Depreciation and amortization expenses;
  - (vi) Other operating expenses;
  - (vii) Total telecom plant in service;
  - (viii) Total property held for future use; and
  - (ix) Total telecom plant under construction.
- (D) A summary filed pursuant to this subsection shall be filed publicly. Workpapers filed pursuant to this subsection may be filed publicly or under seal.
- (E) Upon receipt of a petition pursuant to this section, the commission 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 shall set a new monthly per-line support amount for all exchanges served by the ILEC ETP.
- (2) The commission shall issue a final order in the proceeding not later than the 330<sup>th</sup> day after the date the petition is filed with the commission. Until the commission issues a final order on the proceeding, the ILEC ETP 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) An ILEC ETP 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) The ILEC ETP filing a petition pursuant to this subsection 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 pursuant to 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 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 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 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 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 pursuant to this section shall remain subject to the reporting requirements of §26.403(g) or §26.404(h) of this title.
  - (i) **Additional Financial Assistance.** Nothing in this section shall be interpreted to prohibit an ILEC or cooperative that is not an electing company under Chapter 58, 59, or 65 of PURA to apply for Additional Financial Assistance pursuant to §26.408 of this title (relating to Additional Financial Assistance (AFA)).
  - (j) Service to be supported. The service 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.