

PROJECT NO. 24525

RULEMAKING TO IMPLEMENT HB	§	
2345, RELATING TO SPECIALIZED	§	
TELECOMMUNICATIONS	§	
ASSISTANCE PROGRAM; AND HB	§	PUBLIC UTILITY COMMISSION
472, RELATING TO TEXAS	§	
TELEMARKETING DISCLOSURE	§	OF TEXAS
AND PRIVACY ACT AS IT	§	
CONCERNS TELEPHONE	§	
DIRECTORIES (77TH LEGISLATIVE	§	
SESSION)	§	

**PROPOSAL FOR PUBLICATION AS APPROVED
AT THE OCTOBER 3, 2001 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §26.128 relating to Telephone Directories and §26.415 relating to the Specialized Telecommunications Assistance Program (STAP). The proposed amendment to §26.128 will implement the provisions of House Bill 2345, 77th Legislature (HB 2345), relating to the Specialized Telecommunications Assistance Program, and the provisions of House Bill 472, 77th Legislature (HB 472), relating to new §43.101(c) of the Texas Telemarketing Disclosure and Privacy Act as it relates to telephone directories. The proposed amendment to §26.128 will also remove references to Chapter 23 and make other non-substantive changes. The proposed amendment to §26.415 will implement the provisions of HB 2345 and clarify vendor registration and reimbursement requirements and procedures for the STAP. Other proposed amendments are non-substantive. Project Number 24525 has been assigned to this proceeding.

Susan K. Durso, General Counsel, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections.

Ms. Durso has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be to increase public awareness of the availability of funds for specialized telecommunications assistance and to increase public awareness of the availability of a state-wide no call list to reduce unwanted telemarketing calls. There will be no effect on small businesses or micro-businesses as a result of enforcing these sections. The anticipated economic cost to telephone directory publishers for compliance with the proposed changes in §26.128 is negligible. There is no anticipated economic cost to other persons who are required to comply with the sections as proposed.

Ms. Durso has also determined that for each year of the first five years the proposed sections are 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.

Commission staff will conduct a public hearing on this rulemaking under 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, November 29, 2001 beginning at 9:30 a.m.

Comments on the proposed amendments (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. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed sections. The commission will consider the costs and benefits in making its decision on adopting the proposed language. All comments should refer to Project Number 24525.

These amendments are proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2001) (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, an Act of May 28, 2001, 77th Leg., R.S., ch. 424, §6, 2001 Tex. Gen. Laws 761, 762, which requires the commission to adopt rules, as soon as practicable after the effective date of the Act, under Utilities Code, Chapter 56, Subchapter E, as amended by the Act, to conform the specialized telecommunications assistance program established under that subchapter to the changes in law made by the Act and to adopt rules under PURA §55.203(g), as added by the Act, promptly and make them apply to directories published on or after January 1, 2002; and an Act of May 24, 2001, 77th Leg., R.S., ch. 1429, §1, 2001 Tex. Session Law Service (Vernon's), which requires the commission to establish a Texas no-call list.

Cross Reference to Statutes: Public Utility Regulatory Act §55.203(g) and §56.156 and Texas Business and Commerce Code §43.101(c).

§26.128. Telephone Directories.

- (a) **Applicability.** The provisions of this section shall apply to all telephone directory providers to the extent outlined in this section. For purposes of this section, the term "a private for-profit publisher" shall mean a publisher, other than a telecommunications utility or its affiliate, of a telephone directory that contains residential listings and that is distributed to the public at minimal or no cost.
- (b) **Telephone directory requirements for all providers.** Any private for-profit publisher and any telecommunications utility or its affiliate that publishes a residential telephone directory shall comply with the following requirements:
- (1) — (4) (No change.)
- ~~(5) — For purposes of this subsection, the term "a private for-profit publisher" shall mean a publisher, other than a telecommunications utility or its affiliate, of a telephone directory that contains residential listings and that is distributed to the public at minimal or no cost.~~
- (c) **Private for-profit publisher.** Any private for-profit publisher that publishes a residential telephone directory shall include in the directory a prominently displayed toll-free number and Internet mail address, established by the commission, through which a person may order a form to request to be placed on the Texas no-call list in order to avoid unwanted telemarketing calls.

(d)(e) Additional requirement for telecommunications utilities or affiliates that publish telephone directories.

(1) A telecommunications utility or an affiliate of that utility that publishes a business telephone directory that is distributed to the public shall publish a listing of each toll-free and local telephone number of each elected official who represents all or part of the geographical area for which the directory contains listings.

(2) A telecommunications utility or an affiliate of that utility that publishes and causes to be distributed to the public a residential or business telephone directory shall prominently list in the directory the following information: "The Specialized Telecommunications Assistance Program (STAP) provides financial assistance to help Texas residents with disabilities purchase basic specialized equipment or services needed to access the telephone network. For more information, contact the Texas Commission for the Deaf and Hard of Hearing at 512-407-3250 (Voice) or 512-407-3251 (TTY) or www.tcdhh.state.tx.us. This program is open to all individuals who are residents of Texas and have a disability."

(e)(d) Requirements for telecommunications utilities found to be dominant. This subsection applies to any telecommunications utility found to be dominant as to local exchange telephone service or its affiliate ~~that~~^{which} publishes a directory on behalf of such telecommunications utility.

(1) **Annual publication.** Telephone directories shall be published annually. Except for customers who request that information be unlisted, directories shall list the names, addresses, and telephone numbers of all customers receiving local phone

service, including customers of other certificated telecommunications utilities (CTUs) in the geographic area covered by that directory. Numbers of pay telephones need not be listed.

- (2) **Distribution.** Upon issuance, a copy of each directory shall be distributed at no charge for each customer access line served by the telecommunications utility in the geographic area covered by that directory and, if requested, one extra copy per customer access line shall be provided at no charge. A telecommunications utility shall also distribute copies of directories pursuant to any agreement reached with another CTUcertificated telecommunications utility. A copy of each directory shall be furnished to the commission.
- (3) **Front cover requirements.** The name of the telecommunications utility, an indication of the area included in the directory, and the month and the year of issue shall appear on the front cover. Information pertaining to emergency calls such as for the police and fire departments shall appear conspicuously in the front part of the directory pages.
- (4) **Required instructions.** The directory shall contain instructions concerning:
 - (A) placing local and long distance calls on the network of the telecommunications utility for which the directory is issued;
 - (B) calls to the telecommunications utility's repair and directory assistance services, and locations; and
 - (C) telephone numbers of the business offices of the telecommunications utility as may be appropriate to the area served by the directory.

(5) **Sample long distance rates.** It shall also contain a section setting out sample long distance rates within the long distance service area, if any, on the network of the telecommunications utility for which the directory is issued, applicable at the time the directory is compiled for publication, with a clear statement that the published rates are effective as of the date of compilation.

(6) **Customer addresses.** At the customer's option the directory shall list either the customer's street address, ~~a~~ or post office box number, ~~or no address~~. A charge can be imposed upon those customers who desire more than one address listing~~both listings~~.

~~(f)~~(e) **References to other sections relating to directory notification.** The requirements of this section are in addition to the requirements referenced in paragraphs (1) through (6) of this subsection, or any other applicable section in this title. The applicability of each of the sections referenced in paragraphs (1) through (6) of this subsection is unaffected by the inclusion of the reference in this subsection.

(1) Section ~~26.2923.40(h)(3)~~ of this title (relating to Prepaid Local Telephone Service ~~(PLTS)~~) concerning consumer education;

(2) Section ~~26.3123.41(b)(6)~~ of this title (relating to Disclosures to Applicants and Customers~~Customer Relations~~) concerning information to customers;

~~(3)~~—Section ~~23.106(h)(4)(B)~~ of this title (relating to ~~Selection of Telecommunications Utilities~~) concerning notice of customer rights;

~~(3)~~(4) Section ~~26.12126.121(e)~~ of this title (relating to Privacy Issues) concerning notice of number delivery over 800, 888, and other toll-free prefixes and 900 services;

~~(4)(5)~~ Section ~~26.12226-122(f)~~ of this title (relating to Customer Proprietary Network Information) concerning notification;

~~(5)(6)~~ Section ~~26.12626-126(b)~~ of this title (relating to Telephone Solicitation) concerning responsibility of LECs;

(6) Section 26.130 of this title (relating to Selection of Telecommunications Utilities) concerning notice of customer rights.

~~(g)(f)~~ **Additional requirements.** The following requirements apply to telecommunications utilities found to be dominant as to local exchange telephone service or its affiliate ~~that~~which publishes a directory on behalf of such telecommunications utility.

- (1) **Directory assistance.** Each telecommunications utility shall list each customer with its directory assistance within 72 hours after service connection (except those numbers excluded from listing in ~~subsection (e)(1)(d)(1)~~ of this section) in order that the directory assistance operators can provide the requested telephone numbers based on customer names and addresses.
- (2) **Non-assigned numbers.** All non-assigned telephone numbers in central offices serving more than 300 customer access lines shall be intercepted unless otherwise approved by the commission.
- (3) **Disconnected numbers.** Disconnected residence telephone numbers shall not be reassigned for 30 days and disconnected business numbers shall not be reassigned, unless requested by the customer, for 30 days or the life of the directory, whichever is longer, unless no other numbers are available to provide service to new customers.

- (4) **Incorrect listings.** If a customer's number is incorrectly listed in the directory and if the incorrect number is a working number and if the customer to whom the incorrect number is assigned requests, the number of the customer to whom the incorrect number is assigned shall be changed at no charge. If the incorrect number is not a working number and is a usable number, the customer's number shall be changed to the listed number at no charge if requested.
- (5) **Changing telephone numbers to a group of customers.** When additions or changes in plant or changes to any other ~~CTU's certified telecommunications~~ utility's operations necessitate changing telephone numbers to a group of customers, at least 30 days' written notice shall be given to all customers so affected even though the addition or changes may be coincident with a directory issue.

§26.415. Specialized Telecommunications Assistance Program (STAP).

(a) (No change.)

(b) **Program responsibilities.**

(1) **Texas Commission for the Deaf and Hard of Hearing (TCDHH) responsibilities.** TCDHH is responsible for:

(A) — (B) (No change.)

(C) Promoting the STAP program by means or efforts that provide contact information for persons interested in the voucher program. ~~Depositing amounts paid by eligible individuals for STAP vouchers into the Texas Universal Service Fund (TUSF).~~

(2) (No change.)

(c) **Program administration.**

(1) **Vendor and service provider registration.**

(A) To facilitate the timely reimbursement of STAP vouchers, the TUSF administrator may specify that a vendor or service provider who accepts STAP vouchers shall register with the administrator by providing their name, contact person, address, telephone number, facsimile number (if available), and information sufficient to permit the administrator to reimburse the vendor or service provider by direct deposit rather than by check.

(B) The commission will notify the TUSF administrator and instruct it not to accept registration information from a vendor or service provider if the vendor or service provider is suspended or debarred from doing business with the State of Texas, as determined by the Texas Building and Procurement Commission (formally General Services Commission), or with the federal government. If a vendor or service provider is currently registered under the STAP program and is barred from doing business with the State of Texas or the federal government, the commission shall notify the vendor or service provider, by certified mail return receipt requested, and the TUSF administrator that the vendor or service provider is no longer eligible to receive voucher reimbursements under this program.

(2) **Vendor or service provider reimbursement.** A vendor or service provider who exchanges an STAP voucher for the purchase of approved equipment or services in accordance with the terms of the specialized telecommunications assistance program specified by TCDHH shall be eligible for reimbursement of the lesser of the face value of the STAP voucher or the actual standard retail price of the equipment or service as charged to all customers of that vendor for the same equipment.

(A) TUSF disbursements shall be made only upon receipt from the vendor or service provider of ~~a completed STAP voucher and a receipt showing the actual price of the equipment or service exchanged for the STAP voucher.~~

- (i) The vendor's copy of the TCDHH voucher signed by the vendor, or an authorized representative, in the space provided thereon. By signing the voucher, the vendor is certifying that the device or service has been delivered to the voucher recipient, and that the device was new when delivered and was not used or re-conditioned.
- (ii) The vendor's proof of delivery of the device or service to the voucher recipient. For proof of delivery, the vendor should seek the voucher recipient's signature on the voucher in the space provided thereon. If the vendor is unable to obtain the recipient's signature on the voucher, other evidence of delivery, such as a postal or private delivery service receipt, may be used for proof of delivery to the recipient. However, evidence of delivery to the voucher recipient must include the signature of the voucher recipient or the signature of the recipient's parent or guardian. The signature of an authorized agent will not suffice as a substitute for the signature of the recipient or the recipient's parent or guardian.
- (iii) A receipt that contains a description of the device or service exchanged for the STAP voucher and the price charged to the customer for the device or service exchanged. The price charged to the customer for the device or service exchanged for the voucher cannot exceed the standard retail price charged by that vendor to all of its customers who purchase the same equipment or service.

- (B) TUSF disbursements may also be subject to such other limitations or conditions as determined by the commission to be just and reasonable, including investigation of whether the presentation of ~~aa~~ STAP voucher represents a valid transaction for equipment or service under the STAP.
- (C) If a dispute arises as to whether the submitted documentation is sufficient to create a presumption of a valid STAP sales transaction, the commission will be the sole judge of the sufficiency of the documentation.
- (D)(E) The TUSF administrator shall ensure that reimbursement to vendors for STAP vouchers shall be issued within 45 days after the STAP voucher and other documentation required under subparagraph (A) of this paragraph is received by the TUSF administrator.
- (E)(F) The commission may delay payment of a voucher to a distributor of devices or a service provider if there is a dispute regarding the amount or propriety of the payment or whether the device or service is appropriate or adequate to meet the needs of the person to whom the ~~TCDHH~~Texas Commission for the Deaf and Hard of Hearing issued the voucher until the dispute is resolved.
- (F)(E) The commission may provide that payment of the voucher is conditioned on the return of the payment if the device is returned to the distributor within 30 days of receipt or if the service is not used by the person to whom the voucher was issued within 30 days of its availability. The commission may provide an alternative dispute resolution process for resolving a dispute regarding the equipment or service provided.

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 10th DAY OF OCTOBER 2001 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
RHONDA G. DEMPSEY**