

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter P. TEXAS UNIVERSAL SERVICE FUND.

§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) **Application.**
- (1) **Small or rural ILECs.** This section applies to small ILECs, as defined in subsection (c) 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.
- (c) **Definitions.** The following words and terms when used in this section 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 in accordance with the ILEC's business service tariff or a package that includes such a tariffed service. For a line served by an ILEC in accordance with a customer specific contract or that is otherwise not served in accordance with a tariff, to qualify as a business line, the service must be provided in accordance with 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. For a line that is served by an ETP other than an ILEC, to qualify as a business line, the service must be provided in accordance with 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 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 cannot be both.
 - (3) **Eligible telecommunications provider (ETP) --** A telecommunications provider designated by the commission in accordance with §26.417 of this title (relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF)).
 - (4) **Physical 911 address --** For the purposes of this section, a physical 911 address is an address transmitted to the applicable emergency service providers by an ETP with respect to a line that is not stated in GPS coordinates.
 - (5) **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 does not qualify as a residential line.
 - (6) **Service Address --** For the purposes of this section, a business or residential customer's service address is defined using the following criteria:
 - (A) A service address is the unique physical street address, including any suite or unit number, where a line is provided to a customer, except as provided in clauses (i)-(ii) and subparagraph (B) of this paragraph.

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- (i) If no unique physical street address is available, a physical 911 address must be used.
 - (ii) If no unique physical street address and no physical 911 address are available, the business or residential customer's service address must be an area of land under common operation or use as defined by a deed, state permit, lease name, or licensed or registered field of operation, which must be described by an ETP using GPS coordinates. Multiple buildings within a single area of land under common operation or use do not qualify as separate service addresses, even if the GPS coordinates for each building are different.
 - (B) For eligible lines served using commercial mobile radio service, a service address for such a line may be the customer's billing address for the purposes of this definition.
- (7) **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).
- (d) **Service to be supported by the SRILEC USP.** The SRILEC USP must 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) **Criteria for determining amount of support under SRILEC USP.** The commission will determine the amount of per-line support to be made available to ETPs in each eligible study area in accordance with this section. The amount of support available to each ETP must 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 must 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 must 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 must be determined by the commission in a contested case proceeding. An increase to an existing rate must 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 must be determined in the contested case proceeding.
 - (3) **Annual reductions to the SRILEC USP.** As part of the contested case proceeding referenced in paragraph (2) of this subsection, for each small or rural ILEC ETP, the commission will 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 will 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

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ILEC ETP's annual base support amount must be reduced by 25% of the additional revenue calculated in accordance with this paragraph in each year of the transition period, unless specified otherwise in accordance with paragraph (2)(B) of this subsection. This reduction must 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) **SRILEC USP support payments to ETPs.** The TUSF administrator must disburse monthly support payments to ETPs qualified to receive support in accordance with this section.
- (1) **Payments to small or rural ILEC ETPs.** The payment to each small or rural ILEC ETP must 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 must 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 will 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, 2022, 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, 2024 from the SRILEC USP is reduced:
 - (A) on January 1, 2025, to 75 percent of the level of support the ILEC ETP is eligible to receive on December 31, 2024;
 - (B) on January 1, 2026, to 50 percent of the level of support the ILEC ETP is eligible to receive on December 31, 2024;
 - (C) on January 1, 2027, to 25 percent of the level of support the ILEC ETP is eligible to receive on December 31, 2024; or
 - (D) on January 1, 2028, to zero percent of the level of support the ILEC ETP is eligible to receive on December 31, 2024.
 - (2) An ILEC ETP subject to this subsection may file a petition to show financial need for continued support, in accordance with §26.405(f)(1) of this title, on or before January 1, 2028.
- (h) **Reporting requirements.** An ETP eligible to receive support under this section must report information as required by the commission and the TUSF administrator.
- (1) **Monthly reporting requirement.** An ETP must 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 must file quarterly reports with the commission showing actual SRILEC USP receipts by study area.
 - (A) Reports must be filed electronically in the project number assigned by the commission's central records office no later than 3:00 p.m. on the 30th calendar day after the end of the calendar quarter reporting period.

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- (B) Each ETP's reports must 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 in accordance with paragraph (3) of this subsection must be publicly available.
- (3) **Annual reporting requirements.** An ETP must report annually to the TUSF administrator that it is qualified to participate in the SRILEC USP.
- (4) **Other reporting requirements.** An ETP must 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.