

The Public Utility Commission of Texas (commission) adopts an amendment to §26.412, relating to Lifeline Service and Link Up Service Programs with changes to the proposed text as published in the September 1, 2000 *Texas Register* (25 TexReg 8564). The amendment is necessary to facilitate automatic enrollment of individuals qualifying for Lifeline Service and Link Up Service pursuant to the Public Utility Regulatory Act (PURA) §55.012 and §55.015 requirements. This amendment was adopted under Project Number 21329.

A public hearing on the amendment was held at commission offices on October 31, 2000. Representatives from Worldcom, Verizon, Southwestern Bell Telephone (SWBT), Texas Department of Human Services (TDHS), John Staurllakis, Texas Telephone Association (TTA), the Office of Public Utility Counsel (OPUC), AT&T Communications of Texas, L.P. (AT&T), Sprint, Texas Legal Service Center (TLSC), Texas Statewide Telephone Cooperative, Inc. (TSTCI), Consumers Union, Texas Rose, Reliant Energy, the Office of State Representative Debra Danburg, American Electric Company, Texas Department of Housing and Community Affairs (TDHCA), GNVW Consultants, and Competitive Communications Group (CCG) attended the hearing and provided comments. To the extent that these comments differ from the submitted written comments, such comments are summarized herein.

The commission received written comments on the proposed amendment from the following eight parties: TTA, Worldcom, TDHS, SWBT, TSTCI, Verizon, AT&T and TLSC.

Subsection (a): Scope and purpose

TLSC noted that states like New York and California have outreach programs and simplified self-certification procedures that have greatly increased the number of individuals receiving Lifeline and Link Up services. TLSC recommended that the rule require carriers to commit to an outreach program for their territories, including a budget for media of general local use — such as billboards, television, radio, and community newspapers, to be coordinated by local community action agencies and approved by the commission. This outreach should be provided in English and Spanish. TLSC recommended that the commission fund this outreach through a supplemental legislative appropriations request.

Verizon believed that TLSC's proposal for outreach is premature and inappropriate. Verizon asserted the commission's focus should be implementation and that outreach can be taken up later.

TTA believed that alternatives should be considered for the objective of increasing public awareness of the Link Up service plan. TTA's members have been working with TDHS and the commission to produce outreach materials and programs for this objective. TTA opined that automatic enrollment for Link Up is not contemplated by Senate Bill 560, 76th Legislature, Regular Session (SB 560), and is not a goal attainable by the carriers. TTA stated that the carriers are willing to work with TDHS and the commission. TTA noted that 6,000 11.5 inch by 17.5 inch color posters for placement in all of TDHS' offices will cost approximately \$450 and remarked that the commission indicated at the August 10, 2000, Open Meeting that it will

participate in such efforts. TTA believed that the posters could be distributed to TDHS, Low Income Energy Assistance Program (LIHEAP), and federal housing offices, as well as to TLSC and Consumer's Union offices. If additional outreach is necessary, then TTA stated that the commission should seek legislative financing for it.

Worldcom asserted that the rule exceeds the legislation and that SB 560 did not give the commission authority to require eligible telecommunications carriers (ETCs) to fund direct marketing for Lifeline and Link Up. AT&T strongly supported the comments of Worldcom with regard to how the rule exceeds the legislative intent by requiring carriers to direct market Lifeline and regarding excessive costs to carriers for outreach programs. AT&T concurred with Worldcom's view that this rule will disproportionately impact competitive local exchange carriers (CLECs) and that notice requirements are duplicative and inefficient.

The commission agrees with parties contemplating outreach for automatic enrollment and will initiate a project as a follow-up for the final approved rule and enlist the participation of the interested parties to accomplish this end. Although the commission appreciates the concerns of AT&T and Worldcom regarding carriers' costs for outreach, the commission believes this concern is premature and is better addressed in a project that examines appropriate means and distribution of costs. As noted by TTA, there may be fairly inexpensive methods to promote the use of the program. And, as noted by Worldcom and AT&T at the public hearing, costs are often distributed fairly among carriers in other commission projects.

Subsection (b): Lifeline Service and Link Up Service

AT&T opposed the addition of the expansion of benefit to those at 125% or less of the federal poverty guidelines. AT&T regarded this as burdensome and beyond the scope of the SB 560 mandate for automatic enrollment. Further, AT&T argued that any self-certification requirement is at odds with the goal of automatic enrollment envisioned in the legislation.

Verizon recommended that the language be changed to say that customers may receive Lifeline service either through automatic enrollment where available or self-certification where automatic enrollment is not available. Verizon recommended that a separate subparagraph be created to allow consumers at or below the 125% federal poverty guideline to qualify for Link Up service.

The commission notes that currently all customers receiving Lifeline discounts participate in a self-certification process. The addition of the language allowing those at 125% or less of the federal poverty requirements to obtain Lifeline complies with the federal limitations placed upon states, parallels the electric discount program currently being developed by the commission, and captures a percentage of the population that would qualify for the TDHS benefits but chooses not to participate in public programs for reasons of self-reliance or convenience. Because it is the intent of this rule to expand the application of legitimate enrollment in the Lifeline program, the commission does not agree that SB 560's mandate has been exceeded. The commission also does not agree that a separate paragraph is needed to accommodate the inclusion of the poverty guideline because self-certification is discussed separately in the balance of the rule.

Subsection (c): Lifeline Service Program.

AT&T noted that the Federal Communications Commission's (FCC) CALLS Order has increased the amount of the subscriber line charge (SLC) (*i.e.*: from \$3.50 per access line to \$4.35 per access line for residential customers) and recommended changing the language here to reflect that fact and the FCC's intention to annually review the SLC over the next three years.

TTA recommended revising the phrase "and discounts totaling \$10.50 per monthly bill". TTA supplied a redlined version of its recommended revisions.

The commission adopted the language recommended by TTA and incorporated all of the above recommendations accordingly.

Subsection (c)(1)(B)

In subsection (c)(1)(B)(i), regarding toll-blocking requirements, TDHS recommended the following revision: "The eligible telecommunications carrier shall offer toll blocking to all qualifying consumers...."

The commission believes that the term "low-income" is necessary and includes all categories of consumers who qualify for Lifeline.

Subsection (c)(1)(C)(i)-(iii)

AT&T recommended changing the title of subsection (c)(1)(C)(ii) to "Discontinuance of Lifeline Service," noting that the use of the term Disconnection is confusing. AT&T also suggested that it be made clear that the carrier will be reimbursed for the provision of Lifeline service throughout the period that it is required to notify end users being declared ineligible by TDHS records. AT&T stated that its position was that carriers should be able to rely exclusively upon TDHS records and that 30 days is the appropriate timeframe for discontinuing the user's Lifeline service (as opposed to the 60 days in this subsection). AT&T believed that TLSC's recommendation that subsection (c)(1)(C)(ii) be revised to require self-addressed postage paid reply forms and envelopes runs counter to AT&T's contention that self-certification should be discontinued in its entirety. In addition, AT&T opined that the non-reimbursable costs are unwarranted. Further, AT&T favored an affidavit because this will protect the company against customer fraud. AT&T reiterated that TLSC's assertion that automatic enrollment includes Link Up and that all carriers are required to implement it and provide outreach exceeds the SB 560 intent and is over-broad.

TLSC disagreed with AT&T's position that the 60-day grace period for discontinuing the discount be shortened to 30 days and notes the difficulty that a client may have in proving eligibility. TLSC also pointed out that errors do occur. TLSC recommended that subsection (c)(1)(C)(ii) be amended to require the notice of disconnection sent to end-users be accompanied by the self-certification form and a self-addressed postage paid envelope. TLSC also recommended that the use of the term "affidavit" with reference to self-certification be replaced

with the term "sworn statement." Affidavits require notarization, which makes the process costly and difficult for many potentially qualified recipients. Further, TLSC provided a "Customer Self-Certification of Income Eligibility Form" and noted this will eliminate the requirement for carriers to develop such a form and be subject to the commission's review.

TDHS noted it only had knowledge of the individuals eligible for food stamps, Medicaid and Supplemental Security Income (SSI), and not of recipients of federal housing assistance and the LIHEAP programs. TDHS recommended this revision: "Upon notice by the Texas Department of Human Services (TDHS) that an end user no longer qualifies for food stamps, Medicaid or Supplemental Security Income, the eligible...."

TTA and Worldcom also recommended subsection (c)(1)(C)(ii)-(iii) be revised. These revisions would change "Disconnection" to "Discontinuance" and change the timeframe for annual affidavits for customers. TTA provided a redlined version of its changes.

Finally, Verizon noted that subsection (c)(1)(C)(ii) is unnecessary because service is not interrupted when the customer no longer qualifies for Lifeline. Verizon reminded parties that only the Lifeline discount is halted. Therefore, the modifications recommended by parties are not necessary in Verizon's opinion.

The commission has incorporated AT&T's suggested title for subsection (c)(1)(C)(ii). The commission does not agree with AT&T's argument regarding shortening the timeframe from 60 days to 30 days because TLSC's argument regarding the complexity of addressing this matter via

governmental and local exchange carrier (LEC) bureaucratic structures is compelling. However, the commission does not concur with TLSC's conclusion that a self-addressed stamped envelope must be provided by the carrier, believing that it is not an undue burden for the subscriber to mail or deliver their response to this inquiry. The commission has also incorporated the language change recommended by TDHS and recognizes the limitations of the automatic enrollment database at this time. As discussed at the public hearing, there is every expectation that the automatic enrollment process will evolve and expand its database and administration over the next two years. The commission believes that TLSC has mis-interpreted the LECs' and the commission's intent regarding the customer's self-affirmation and notes that nothing in this rule should be interpreted to require notarization of the document submitted.

In subsection (c)(1)(C)(iii), TDHS recommended that the language be changed to indicate that individuals who can self-certify include those receiving federal housing assistance and LIHEAP benefits as well as those who are low-income. TDHS believed that referring to the consumer as low-income might cause confusion because the qualifications for participation are low-income and be in one of the TDHS programs (food stamps, Medicaid or SSI) or in one of the other two benefit programs. Therefore, references to "low-income" appear to indicate that the consumer is different from those individuals who qualify for the service based upon receipt of one of the specific benefit programs. TDHS recommended the following change: "Individuals not receiving benefits through TDHS programs, but who have met Lifeline and Link Up qualifications in subsection (b)...." And, for the same reason, TDHS recommended that all references to "low-income" be deleted.

AT&T supported TDHS' recommendation to remove the term "low-income" but notes that TDHS' recommendation regarding separate lists from LIHEAP and federal housing offices is not addressed in the rule. AT&T recommended that TDHS should engage in a cooperative venture with these other agencies for the formation of the list. AT&T also reiterated its position that self-certification be removed from the rule. AT&T believes that if self-certification is allowed it should be the responsibility of TDHS to process this; otherwise, the carrier's customers will have to absorb the administrative costs. Further, AT&T recommended a one-time notice to all those customers currently self-certified for Lifeline. AT&T also objected to having to mail the end user an affidavit and a notice twice before discontinuing the discount.

Worldcom recommended that self-certified customers receive one notice per year advising they have 60 days to return the accompanying affidavit for continued service.

The commission has incorporated the use of the term "discontinuance" as recommended by parties. The commission was persuaded by AT&T's argument regarding the second notice to customers and believes the 60-day response period allows adequate time for the customer to address verification. Companies discussed the likelihood that they might employ a telephone follow-up for customers who had not responded because it is more cost-effective. Regardless, a customer disconnected from the discount in error has not had their service terminated and may easily regain the discount by contacting their company. The commission believes that the use of the term "low-income" does not cause confusion and encompasses all categories of qualification for the Lifeline program. The commission recognizes that other agencies do not currently share information with TDHS for incorporation into the database being developed but, the commission

anticipates that the involvement of these agencies may be gained in the future, perhaps during the outreach project.

Subsection (c)(1)(D)

TLSC recommended carriers be required in their notice to applicants to advise that a service deposit is not necessary if the applicant elects toll blocking.

The commission concurs and will address this issue in Project Number 23608, *Implementation and Outreach for Lifeline and Link Up Service Automatic Enrollment*.

Subsection (c)(2)(C)(i)-(iv)

Based on AT&T's comments regarding the federal SLC, AT&T recommended that in subsection (c)(2)(C)(i)-(iv), the dollar amounts should be eliminated.

The commission has made appropriate changes to address AT&T's concern.

Subsection (d): Link-Up Service Program

Subsection (d)(1)(B)

AT&T believed language should be added to allow the carrier to assess late fees if a customer fails to meet their payment obligations under deferred payment plans and the carrier should be allowed to disconnect service entirely if payments are not made in a timely fashion.

The commission declines to incorporate AT&T's recommendation and notes that this section was adopted from the federal statute.

Subsection (e): Obligations of the consumer and the eligible telecommunications carrier

Subsection (e)(1)

AT&T again noted its objection to self-certification.

TDHS recommended the following: "Consumers who meet the requirements for qualification listed in subsection (b) of this section but do not receive benefits under the food stamp, Medicaid or Supplemental Security Income (SSI) programs may provide their local eligible telecommunications carrier with an affidavit of self-certification for Lifeline and/or Link Up Service benefits. Consumers receiving food stamps, Medicaid or SSI benefits and who have telephone service...."

Verizon sought clarification that self-certification is available for consumers who qualify under any program in subsection (b) but for whom automatic enrollment is not available, and that Link Up service requires the consumer to initiate a request with their carrier of choice.

Worldcom recommended changing the language in subsection (e)(1) to require that consumers notify TDHS if they do not want to receive Lifeline service. However, TDHS responded that it does not have the capability to do anything with that information at this time because it does not know who is or is not enrolled in the program.

The commission believes that the changes it has made address many of the concerns above. Although the commission recognizes the objections of some parties to self-certification, it notes that *all* current recipients of Lifeline are self-certified. In addition, some states, such as California, use self-certification alone for receipt of the Lifeline discount, and, in this instance, self-certification is included to allow qualifying customers outside of the database to legitimately receive the benefit of the Lifeline discount. Further, at the public hearing, consumer groups emphasized the importance of self-certification. Therefore, because no harm is incurred by its inclusion and it may be advantageous to the enrollment of a significant population of qualified customers, the commission has retained self-certification in this rule. However, the commission disagrees with the clarifications suggested by Verizon because the commission does not believe that language clarifications are needed. The commission also disagrees with Verizon that potential Link Up customers should be required to initiate a request for service in order to receive services.

Subsection (e)(2)(A)(i)-(iii)

In subsection (e)(2)(A)(i), Verizon recommended that language be changed from requiring an eligible telecommunications carrier (ETC) to provide service within its territory to "offering" the service for qualified individuals in its territory. In subsection (e)(2)(A)(i)(II), Verizon stated that it did not believe that Link Up service is part of automatic enrollment as envisioned by SB 560 and recommends customers be required to self-certify for Link Up and that this section not be adopted.

TLSC agreed with other parties that subsection (e)(2)(A)(i) appears to create a duplicative process and prefers a single direct mail notice be sent by a third party on a semiannual basis and be paid for by the industry. TLSC stated that the draft rule does not ensure that a TDHS client actually gets the brochure and material. TLSC believed that this is a minimal requirement to get people who deserve the program the services they need. TLSC wanted the preamble to commit the commission and parties to a follow-up project to track, analyze and make further recommendation regarding enrollment. TLSC believed that a third party, like LIDA, or a third-party administrator could conduct such outreach and do computer matches in the future.

AT&T recommended language be changed to require only the carrier serving the qualifying end user to notify them of the discount. AT&T noted that the directory and annual notice provided by all ETCs already provides advertisement of the availability of Lifeline service. Again, AT&T recommended a 30-day timeframe. AT&T suggested the following language to subsection (e)(2)(A)(ii): "Upon receipt of the monthly update provided by TDHS under subsection (e)(2) of

this section, the eligible telecommunications carrier shall begin reduced billing for those qualifying low-income consumers subscribing to services within thirty days of receipt of the monthly update and fulfillment by the consumer of all criteria necessary to initiate service with the carrier, whichever is later."

In subsection (e)(2)(A)(ii), TDHS recommended the following: "Upon receipt of the monthly update provided by TDHS under subsection (f)(2) of this section, the eligible telecommunication carrier shall begin reduced billing for those qualifying consumers." TDHS also noted that the reference to the monthly update provided by TDHS should be in subsection (f)(2), not (e)(2).

TTA recommended changes to address concerns related to duplicative notice by companies and to the Link Up program.

Worldcom recommended deletion of subsection (e)(2)(A)(i)(II) because mail-outs for all non-matches are not necessary. Worldcom believed that the consequences resulting from direct marketing requirements found in subsection (e) will delay implementation of the rule. Worldcom agreed with TLSC that the expense will be passed on to all consumers. Worldcom stated that the more we stray from direct automatic enrollment (meaning processes developed between TDHS and the industry to effectuate the transfer of information regarding eligible customers in the direct provisioning of benefits) and incorporate direct marketing or direct mail-out requirements, more time will be required to get this project moving, which means less benefit to all Texas consumers. Worldcom opined that costs and delay would be the unintended public

interest consequences if the rule were adopted as currently written, with multiple carriers sending letters to non-matches.

AT&T recommended subsection (e)(2)(A)(iii) be deleted in its entirety because of its objections to self-certification.

In subsection (e)(2)(A)(iii), TDHS recommended: "The eligible telecommunications carrier shall provide an affidavit of self-certification to all customers who may meet the criteria of subsection (b) of this section but do not receive benefits from TDHS...."

The commission has deleted subsection (e)(2)(A)(i)(II) because it is persuaded by the parties' arguments that this will reduce duplication for LECs and confusion for end users. As addressed more fully above, the commission disagrees with AT&T's position on self-certification. Also, the commission declined TDHS' language suggestions because, as stated previously, the commission believes that "low-income" should be included in the rule language.

Subsection (e)(2)(B)

AT&T objected to subsection (e)(2)(B) for the same reasons as subsection (e)(2)(A), that notice will be duplicative. Also, AT&T saw no basis for this subsection related to Link Up service because it is not addressed specifically in SB 560. AT&T recommended it be deleted in its entirety.

TDHS recommended: "The eligible telecommunications carrier shall provide Link Up Service to all qualifying consumers...."

TTA and TLSC recommended changes to address concerns related to duplicative notice by companies and to the Link Up program.

Verizon recommended that "provide" be replaced with "offer" and that the qualification "within the ETC's service territory" be added.

Worldcom objected to subsection (e)(2)(B) and stated its position that Link Up is a separate program from Lifeline and this subsection requires ETCs to effectively solicit new customers who will be Lifeline-eligible.

The commission believes promotion of service connection for customers who do not have existing service is part of the intent behind automatic enrollment and, although installation of service will not be "automatic," provisions for Link Up Service are necessary in the rule. The commission has made revisions pursuant to the recommendations of parties that it believes address the above concerns.

Subsection (f): Memorandum of Understanding

TDHS wanted to make clear that the format will be the same for every carrier.

Subsection (f)(2)(A)

TDHS believed the wording of this section should be changed to reflect the negotiated wording of the memorandum of understanding (MOU) or should be changed to generally refer to the MOU executed between the commission and TDHS. Barring that, TDHS recommended the following revision in subsection (f)(2)(A), "TDHS will identify all active recipients of food stamp, Medicaid and SSI benefits who are therefore eligible for Lifeline and Link Up Service." TDHS stated that the client information it will provide is its minimum requirement, but TDHS may agree with the telephone companies to add additional client information, if necessary.

TLSC recommended that the commission work with TDHS to devise a specific process to insure that TDHS clients receive the outreach materials through TDHS' field offices and that this is included in the MOU.

The commission has incorporated the recommendations of TDHS. The commission does not believe the language recommended by TLSC is necessary at this time. During the public hearing, TDHS and the LECs indicated their willingness to accommodate outreach through TDHS' field offices and this matter will be addressed further in the follow-up project. The MOU only addresses the activities required by TDHS of the commission and by the commission of TDHS to accomplish a cooperative effort to implement automatic enrollment practices.

Subsection (f)(2)(B)

Worldcom believed subsection (f)(2)(B) should be modified to state that TDHS would provide its file via file transfer protocol (FTP).

TTA and AT&T proposed, as an alternative to an FTP format, that an Internet site be set up.

The commission agrees with the comments made at the public hearing that Worldcom's recommendation is too limiting. TDHS indicated at the public hearing that an Internet site would likely be established in the future. Again, the commission is encouraged by TDHS' cooperative interaction with the carriers and believes the database, its administration, and carrier use will evolve to accomplish the goal of automatic enrollment. Therefore, the commission has addressed the possibility of future evolution by maintaining neutrality in this section so that the parties may have the opportunity to create a database structure that meets their needs.

Subsection (f)(2)(C)

TDHS recommended the following revision to subsection (f)(2)(C): "TDHS and the eligible telecommunications carriers may agree on another format to the initial list. TDHS will provide each carrier's list using the same format." TDHS noted that it intends to provide data to each carrier using the same format and is negotiating with the carriers as a group to determine what that format will be.

The commission has incorporated changes to address TDHS' concern.

All parties unanimously supported the use of social security numbers to match customers.

AT&T believed the key element in identifying a qualifying customer is the telephone number and emphasized its concern regarding consistent availability of telephone numbers from TDHS' database. In addition, AT&T expressed its concern regarding customer privacy but noted that the rule does not address situations in which a telephone number does not match the name of the qualifying customer. Although AT&T does not use social security numbers, AT&T had no objection to carriers using social security numbers to identify customers.

Worldcom recommended modifying subsection (f)(2)(C) to have TDHS provide social security numbers because it is more reliable than phone numbers or addresses. Worldcom believed that this is the best way of matching customers, which lowers administrative costs to carriers and increases the number of consumers receiving benefits, making the use of social security numbers good for consumers and carriers. In addition, Worldcom recommended that this subsection should be modified to say that monthly lists would only include new Lifeline eligible consumers and that there will be one annual file for deletions from the qualifying programs.

TDHS stated that it had received authorization from the Social Security Administration to share information related to supplemental security income recipients including social security numbers and also believed that the use of social security numbers would ensure more customers successfully being matched.

SWBT believed that there is no other reliable way to match consumers without social security numbers and strongly recommended that social security numbers be used to alleviate problems with similar or misspelled names or addresses.

Although TLSC usually does not support the use of social security numbers, TLSC believed that they are necessary in this instance to guarantee accuracy. TLSC believed that too many mismatches would occur without the ability of carriers to match customers using social security numbers.

The commission agrees with commentors that the use of social security numbers, where available to TDHS, in its database will increase the accuracy and number of matches. Although the commission is concerned about the use of social security numbers, the commission believes that the confidentiality agreement between TDHS and the LECs will ensure the necessary privacy protection for customers.

Subsection (f)(2)(D)

AT&T believed that TDHS should provide a list of the deleted consumers monthly instead of a list of the eligible consumers that would require the carrier to do a database search to eliminate the non-qualifying clients.

AT&T's recommendation has merit but is apparently impractical at present according to comments received at the hearing.

Subsection (g): Tariff requirement

No comments were received on this section.

Subsection (h): Review of Affidavits of Self-Certification, letters and notices provided by carriers

AT&T objected to any commission review *and approval* of its materials for consumers. Worldcom stated that it wants the flexibility to use whatever type of form it finds reasonable, so as not to incur any additional development costs in complying with the exact wording of a form that the commission might want to use as a uniform self-certification form. However, Worldcom concurred that it is reasonable in the future for the commission to create some uniformity with the forms.

After extensive discussion at the public hearing, the commission concludes that the commission must review the forms, but that the LECs will not be required to make immediate changes to printed materials. Instead, the commission proposes in a follow-up project to review these materials and work to develop uniform letters, notices and self-certification forms to be used by all parties on a going forward basis only.

Subsection (i): Implementation timeline

AT&T recommended the commission establish a compliance timeline and require a waiver if a carrier cannot meet that timeline.

TLSC was concerned about timely implementation and compliance by the carriers and believed that the rule proposed allows carriers too much time to comply with legislation already old. TLSC emphasized that the industry has had over a year to prepare for automatic enrollment and that implementation should occur immediately upon adoption of the rule.

Verizon disagreed with TLSC's recommendation regarding implementation and believes that six months is appropriate.

TTA & TSTCI took issue with TLSC's comments because of the implication that the industry is "holding up" the process of automatic enrollment and is not in compliance with legislative mandates. TTA & TSTCI believe that this process requires detailed coordination of efforts and TDHS cannot do the bulk of its work until a rule is finalized. TTA & TSTCI believe to do otherwise would be an ineffective use of resources and investment.

AT&T stated that TLSC's contention that all carriers should implement automatic enrollment at the time the commission adopts the rule is unsupportable and legally inaccurate, as well as fundamentally lacking in an understanding of the business needs of the carriers. AT&T

projected a six-month period, at a cost of \$300,000 - \$600,000, between adoption of the rule and carrier implementation.

Worldcom and SWBT supported staff's language as proposed. SWBT outlined a process for implementation, which SWBT believed would take approximately six months to complete.

Although the commission appreciates TLSC's concerns regarding the timeline, the changes made in this section accept the practical implications of implementation as the parties have expressed them.

Subsection (j): Reporting requirements

AT&T opposed the collection and reporting of data on Lifeline customers because the notice required in subsection (e)(2)(A)(ii)(II) is wasteful and should be deleted and asserted that the information would be meaningless. AT&T stated that this runs counter to the goal of SB 560 which requires TDHS to identify the consumers who are eligible and create a database for the collection of such data as may be needed.

Worldcom believed that subsection (j)(1) should be modified as a result of the deletion of subsection (e)(2)(A)(i)(II).

SWBT suggested language "within one year of the effective date," because carriers have up to 180 days to implement, with a report due 180 days later.

The commission concludes that better information may be obtained after a full year of implementation and has made the appropriate changes allowing the commission to determine, based on carrier reports, the effectiveness of the automatic enrollment process.

Subsection (k): Notice of Lifeline and Link Up Services

AT&T recommended modification to clarify that notice in a directory is satisfactory.

TLSC stated that this section should be amended to include a bilingual notice. TLSC also stated that the goal here should be to have a rule that ensures that those people who are eligible for Link Up receive the benefits.

The annual bill notice in this section is a requirement of the federal statutes. In addition, as a result of the hearing discussions with consumer groups, the commission has added language regarding bilingual notice with the intent of greater outreach.

Subsection (l): Confidentiality agreements

No comments were received on this section.

All comments, including any not specifically referenced herein, were fully considered by the commission. In adopting this rule, the commission makes other minor modifications for the purpose of clarifying its intent.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2001) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, §55.012 and §55.015, which require that the commission adopt rules providing for automatic enrollment of eligible consumers to receive Lifeline Service.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, §55.012 and §55.015.

§26.412. Lifeline Service and Link Up Service Programs.

- (a) **Scope and purpose.** Through this rule the commission seeks to extend Lifeline Service and Link Up Service to all qualifying end users and establish a procedure for the Lifeline Automatic Enrollment Program. This section applies to eligible telecommunications carriers as defined by §26.418 of this title (relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds) and §26.417 of this title (relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF)).
- (b) **Lifeline Service and Link Up Service.** Each eligible telecommunications carrier shall provide Lifeline Service and Link Up Service as provided by this section. A customer with an income at or below 125% of the federal poverty guidelines, or receiving benefits from any of the following programs qualifies for Lifeline and Link Up Services: Medicaid, food stamps, Supplemental Security Income (SSI), federal public housing assistance, or Low Income Energy Assistance Program (LIHEAP). A customer eligible for Lifeline Service is automatically eligible for Link Up Service. However, a customer may qualify for and receive Link Up Service independently of Lifeline Service. Nothing in this section shall prohibit a customer otherwise eligible to receive Lifeline Service and/or Link Up Service from obtaining and using telecommunications equipment or services designed to aid such customer in utilizing qualifying telecommunications services.

(c) **Lifeline Service Program.** Lifeline Service is a retail local service offering available to qualifying low-income customers. Eligible telecommunications' carriers provide qualifying end users with a waiver of the federal subscriber line charge (SLC) and an additional discount up to \$7.00 per monthly bill and are reimbursed from federal and state universal service funds.

(1) **Provision of Lifeline Service.** Lifeline Service shall be provided according to the following requirements.

(A) Designated Lifeline services. The eligible telecommunications carrier shall offer the services or functionalities enumerated in 47 Code of Federal Regulations §54.101(a)(1)-(9) (relating to Supported Services for Rural, Insular and High Cost Areas).

(B) Toll blocking.

(i) Toll blocking requirements. The eligible telecommunications carrier shall offer toll blocking to all qualifying low-income customers at the time such customers subscribe to Lifeline Service. If the customer elects to receive toll blocking, that service shall become part of the customer's Lifeline Service and the customer's monthly bill will not be increased by the toll blocking charge.

(ii) Waiver. The commission may grant a waiver of the requirement of clause (i) of this subparagraph upon a finding that exceptional circumstances prevent an eligible telecommunications carrier from providing toll blocking. The period for the waiver shall not extend beyond the time that the commission deems necessary for that

eligible telecommunications carrier to complete network upgrades to provide toll blocking services.

(C) Disconnection of service.

- (i) Disconnection prohibition. An eligible telecommunications carrier may not disconnect Lifeline Service for non-payment of toll charges.
- (ii) Discontinuance of Lifeline Discounts when eligibility ends. Upon notice by the Texas Department of Human Services (TDHS), pursuant to subsection (f)(2)(D) of this section, that an end user no longer qualifies for Lifeline Service, the eligible telecommunications carrier shall provide a direct mail notice to the end user advising that the Lifeline Service discount will be discontinued 30 days from the date of the notice unless the end user notifies the eligible carrier that an error has been made. If the end user notifies the carrier of an error, the Lifeline Service discount will be continued for an additional 30 days to allow the end user adequate time to correct records and obtain an affirmation of eligibility from TDHS. If the end user has not obtained an affirmation of eligibility from TDHS by the end of the 60-day period, Lifeline Service may be discontinued and the end user's service and billing will continue at applicable tariffed rates.
- (iii) Discontinuance of Lifeline Discounts for customers who have self-certified. Individuals not receiving benefits through TDHS

programs, but who have met Lifeline income qualifications in subsection (b) of this section, may be required to verify their status with an affidavit. Eligible telecommunications carriers may require such verification annually and notify customers receiving Lifeline Service by direct mail that the accompanying affidavit must be submitted within 60 days to continue the Lifeline service. If the customer does not respond within 60 days, the Lifeline discount will cease and service will continue at applicable tariffed rates.

- (D) Service deposit prohibition. If the qualifying low-income customer voluntarily elects toll blocking from the eligible telecommunications carrier, the carrier may not collect a service deposit pursuant to §26.24 of this title (relating to Credit Requirements and Deposits), in order to initiate Lifeline Service.

(2) **Lifeline support.**

- (A) Lifeline support amounts. Lifeline support amounts per qualifying low-income customer shall be provided according to the provisions of this paragraph.
 - (i) Federal baseline Lifeline support amount. An eligible telecommunications carrier shall grant a waiver of the monthly federal subscriber line charge (SLC) to qualifying low-income customers. If the eligible telecommunications carrier does not charge the federal SLC, it shall apply the federal baseline support

amount to reduce its lowest tariffed residential rate for supported services.

(ii) State-approved \$1.75 reduction. Pursuant to 47 Code of Federal Regulations §54.403 (relating to Lifeline Support Amount), an eligible telecommunications carrier shall give a qualifying low-income customer a state-approved reduction of \$1.75 in the monthly amount of intrastate charges paid.

(iii) Additional state reduction with federal matching. Pursuant to 47 Code of Federal Regulations §54.403, an eligible telecommunications carrier shall give a qualifying low-income customer the following:

(I) an additional state-approved reduction of \$3.50 in the monthly amount of intrastate charges; and

(II) a further federally approved reduction of \$1.75.

(B) Recovery of support amounts.

(i) Federal baseline Lifeline support. An eligible telecommunications carrier shall be entitled to recover the support amount required by subparagraph (A)(i) of this paragraph pursuant to 47 Code of Federal Regulations §54.407 (relating to Reimbursement for offering Lifeline), through the federal USF.

(ii) State-approved \$1.75 reduction. An eligible telecommunications carrier shall be entitled to recover federal Lifeline support pursuant to 47 Code of Federal Regulations §54.407 to recover the

reduction amount required by subparagraph (A)(ii) of this paragraph.

(iii) Additional state reduction with federal matching.

(I) An eligible telecommunications carrier shall be entitled to recover support from the Texas Universal Service Fund to recover the reduction amount required by subparagraph (A)(iii)(I) of this paragraph.

(II) An eligible telecommunications carrier shall be entitled to recover federal Lifeline support pursuant to 47 Code of Federal Regulations §54.407 to recover the reduction amount required by subparagraph (A)(iii)(II) of this paragraph.

(C) Application of support amounts.

(i) An eligible telecommunications carrier that is also an incumbent local exchange company (ILEC) as defined by §26.5 of this title (relating to Definitions) that offered, as of June 1, 1997, a tariffed \$3.50 Lifeline Service rate discount in addition to the \$3.50 waiver of the federal SLC, must reduce rates for services determined appropriate by the commission by an amount equivalent to the amount of support it is eligible to receive. If such ILEC does not reduce its rates pursuant to a commission order, it shall not be eligible to receive support.

- (ii) Eligible telecommunications carriers that charge the federal SLC or equivalent federal charges shall apply the federal baseline Lifeline support to waive a qualified low-income customer's federal SLC. The state-approved reductions of \$1.75 and \$3.50 and the additional federally approved reduction of \$1.75 shall be applied to reduce the monthly intrastate end user charges paid by the qualifying low-income customers.
 - (iii) Eligible telecommunications carriers that do not charge the federal SLC or equivalent federal charges shall apply the federal baseline Lifeline support amount, plus the state-approved reduction of \$1.75 and \$3.50 and the additional federally approved reduction of \$1.75 to reduce their lowest tariffed residential rate for the supported services and charge qualified low-income customers the resulting amount.
 - (iv) The monthly discounted residential rate for qualified low-income customers may not be reduced below \$2.50.
- (d) **Link Up Service Program.** This is a program certified by the Federal Communications Commission (FCC), pursuant to 47 CFR §54.411, that provides a qualifying low-income customer with the following assistance:
 - (1) **Services.**
 - (A) A qualifying low-income customer may receive a reduction in the eligible telecommunications carrier's customary charge for commencing

telecommunications service for a primary single line connection at the customer's principal place of residence. The reduction shall be half of the customary charge or \$30, whichever is less.

- (B) A qualifying low-income customer may receive a deferred schedule for payment of the charges assessed for commencing service, for which the customer does not pay interest. Interest shall be waived for connection charges of up to \$200 that are deferred for a period not to exceed one year. Charges assessed for commencing service include any charges that the carrier customarily assesses to connect subscribers to the network. These charges do not include any permissible security deposit requirements. Deferred payment of these charges will not be subject to late fees or additional service fees.

- (2) **Qualifying low-income customer choice.** A qualifying low-income customer is eligible for both of the services set forth in paragraphs (1)(A) and (B) of this subsection.
- (3) **Limitation on receipt.** An eligible telecommunications carrier's Link Up Service shall allow a qualifying low-income customer to receive the benefit of Link Up Service on subsequent occasions only for a principal place of residence with an address different from the residence address at which the Link Up Service was provided previously.

- (e) **Obligations of the customer and the eligible telecommunications carrier.**

- (1) **Obligations of the customer.** Customers who meet the low-income requirement for qualification but do not receive benefits under the programs listed in subsection (b) of this section may provide their local eligible telecommunications carrier with an affidavit of self-certification for Lifeline and/or Link Up Service benefits. Customers receiving benefits under the programs listed in subsection (b) of this section and who have telephone service will be subject to the Lifeline automatic enrollment procedures of TDHS unless they provide their local carrier with a request to be excluded from Lifeline Service. Customers receiving benefits under the programs listed in subsection (b) of this section and who do not have telephone service must initiate a request for service from eligible telecommunications carriers providing local service in their area.

(2) **Obligations of eligible telecommunications carriers.**

(A) Lifeline Service.

- (i) The eligible telecommunications carrier shall provide Lifeline Service to all eligible customers identified by TDHS within its service area in accordance with this section.

- (I) The eligible telecommunications carrier shall identify those customers on the initial list(s) provided by TDHS to whom it is providing telephone service and shall begin reduced billing for those qualifying low-income customers in accordance with the timeline filed with the commission pursuant to subsection (i) of this section.

- (II) The eligible customer shall not be charged for changes in telephone service arrangements that are made in order to qualify for Lifeline Service, or for service order charges associated with transferring the account into Lifeline Service. If the eligible customer changes the telephone service or initiates new service, the eligible telecommunications carrier shall begin reduced billing at the time the change of service becomes effective or at the time new service is established.
- (ii) Upon receipt of the monthly update provided by TDHS under subsection (e)(2) of this section, the eligible telecommunications carrier shall begin reduced billing for those qualifying low-income customers subscribing to services within 30 days of receipt of the monthly update.
- (iii) The eligible telecommunications carrier shall provide a blank affidavit of self-certification to all customers who may meet the low-income criteria of subsection (b) of this section but do not receive benefits from TDHS and shall provide such affidavit by direct mail at the customer's request. Upon receipt of the customer's signed affidavit the eligible telecommunications carrier shall initiate Lifeline Service within 30 days. The eligible telecommunications carrier may require annual verification pursuant to the procedure in subsection (c)(i)(C)(iii) of this section.

(B) **Link Up Service.** The eligible telecommunications carrier shall provide Link Up Service to all qualifying low-income customers as described in this section. Upon receipt of the self-certification affidavit, the eligible telecommunications carrier will initiate contact, by direct mail or telephone, with the qualifying customer to determine any necessary information required to accomplish a request for new service. The customer will remain eligible for the Link Up discounts for the 12-month period covered by the self-certification affidavit but the customer will be required to contact the eligible telecommunications carrier to initiate an order for service.

(f) **Memorandum of Understanding.** Pursuant to a Memorandum of Understanding (MOU) between the commission and TDHS to facilitate automatic enrollment of eligible customers in Lifeline, the commission and the TDHS will undertake the following obligations.

(1) **Commitments of the commission.**

(A) The commission will provide TDHS with a listing of eligible telecommunications carriers in the state. The listing will include the carriers' mailing addresses, a list of the counties served by each carrier, and a carrier contact for Lifeline and Link Up Services.

(B) On a monthly basis, the commission will provide electronic updates to the listing set out in subparagraph (A) of this paragraph, including changes, additions or deletions to the listing.

- (C) The commission will work with TDHS and the eligible telecommunications carriers to develop informational material on Lifeline and Link Up Services for distribution to eligible customers through TDHS' field offices.
- (D) The commission will provide TDHS with other information available to the commission that will assist TDHS in implementing an automatic enrollment system for eligible customers.

(2) **Commitments of TDHS**

- (A) TDHS will identify all active recipients of the benefits in subsection (b) of this section who are therefore eligible for Lifeline and Link Up Service.
- (B) By March 2, 2001, provided that TDHS has received a signed confidentiality agreement pursuant to subsection (1) of this section, TDHS will provide each eligible telecommunications carrier with an initial list of eligible customers for automatic enrollment in Lifeline Service in an electronic format.
- (C) The initial list set out in subparagraph (B) of this paragraph shall include the name, address, county, telephone number, if available, and social security number (SSN) of the qualifying customer. TDHS and an eligible telecommunications carrier may agree on another format to the initial list.
- (D) TDHS will provide electronic updates to the initial list, in the same format, to each eligible telecommunications carrier. The monthly updates provided by TDHS will include new eligible customers only. An annual update provided by TDHS will include "deletes", defined as a person or

persons who have ceased being eligible or ceased receiving benefits from TDHS. The annual delete file will be provided by TDHS on February 1 of each year, beginning February 1, 2002.

(E) TDHS will work with the commission and the eligible telecommunications carriers to develop informational material on Lifeline and Link Up Services for distribution to eligible customers through TDHS' field offices.

(g) **Tariff requirement.** Each carrier seeking designation as an eligible telecommunications carrier shall file a tariff to implement Lifeline Service and Link Up Service, or revise its existing tariff for compliance with this section and with applicable law, prior to filing its application for designation as an eligible telecommunications carrier. Within 60 days of the effective date of this section all carriers currently offering Lifeline and Link Up Service shall file a revised tariff in compliance with this section. No other revision, addition, or deletion unrelated to Lifeline Service and Link Up Service shall be contained in the tariff application.

(h) **Review of Affidavits of Self-Certification, letters and notices provided by eligible telecommunications carriers.** Within 30 days of the effective date of this section, eligible telecommunications carriers must provide drafts of its standard affidavit of self-certification for low-income customers and any proposed letters, notices, or informational material, including text of its directory notice, to be used pursuant to this section for commission review and approval.

- (i) **Implementation timeline.** Telecommunications carriers must implement the Lifeline Service Automatic Enrollment Program within 180 days after the effective date of this section.

- (j) **Reporting requirements.**
 - (1) After receipt of the initial TDHS eligibility list and then annually on the anniversary of the date of the telecommunications carrier's full implementation of the automatic Lifeline enrollment process, all eligible telecommunications carriers shall file with the commission a report detailing how many customers were enrolled through the Lifeline Automatic Enrollment Program.
 - (2) **Texas Universal Service Fund (TUSF).** An eligible telecommunications carrier providing Lifeline Service pursuant to this section shall report information as required by the commission or the TUSF administrator, including but not limited to the following information.
 - (A) Initial reporting requirements. An eligible telecommunications carrier shall provide the commission and the TUSF administrator with information demonstrating that its Lifeline Service plan meets the requirements of this section.
 - (B) Monthly reporting requirements. An eligible telecommunications carrier shall report monthly to the TUSF administrator the total number of qualified low-income customers to whom Lifeline Service was provided for the month by the eligible telecommunications carrier.

- (C) Other reporting requirements. An eligible telecommunications carrier shall report any other information required by the commission or the TUSF administrator, including any information necessary to assess contributions to and disbursements from the TUSF.
- (3) **Federal Lifeline Service Program.** An eligible telecommunications carrier shall file the following information with the administrator of the Federal Lifeline Program:
 - (A) information demonstrating that the eligible telecommunications carrier's Lifeline Service plan meets the criteria set forth in 47 Code of Federal Regulations Subpart E (relating to Universal Service Support for Low-Income Consumers);
 - (B) the number of qualifying low-income customers served by the eligible telecommunications carrier;
 - (C) the amount of state assistance; and
 - (D) other information required by the administrator of the Federal Lifeline Program.
- (k) **Notice of Lifeline and Link Up Services.** An eligible telecommunications provider shall provide notice of Lifeline and Link Up Services in any directory it distributes to its customers and shall provide an annual bill message advising customers of the availability of Lifeline and Link Up Services. In any instance where the carrier provides bilingual (English and Spanish) information in its directory and annual bill messages, the carrier must also provide its notice regarding Lifeline and Link Up Service in a bilingual format.

- (l) **Confidentiality agreements.** Eligible telecommunications carriers must execute a confidentiality agreement with TDHS prior to receiving the eligible customer list pursuant to subsection (f)(2)(B) of this section. The agreement will specify that client information is released by TDHS to the carrier for the sole purpose of providing Lifeline and/or Link Up Service to eligible customers and that the information cannot be released by the carrier or used by the carrier for any other purpose.

This agency hereby certifies that the rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority. It is therefore ordered by the Public Utility Commission of Texas that §26.412 relating to Lifeline Service and Link Up Service Programs is hereby adopted with changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 9th DAY OF FEBRUARY 2001.

Chairman Pat Wood, III

Commissioner Judy Walsh

Commissioner Brett A. Perlman