

PROJECT NO. 31864

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| RULEMAKING PROCEEDING TO | § | PUBLIC UTILITY COMMISSION |
| IMPLEMENT PURA §56.301, | § | OF TEXAS |
| REGARDING AUDIO NEWSPAPER | § | |
| ASSISTANCE PROGRAM FOR BLIND | § | |
| AND VISUALLY IMPAIRED PERSONS | § | |

**ORDER ADOPTING NEW §26.424
AS APPROVED AT THE JUNE 7, 2006 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts new §26.424, relating to Audio Newspaper Assistance Program, with no changes to the proposed text as published in the March 10, 2006 issue of the *Texas Register* (31 TexReg 1581). The rule is necessary to implement Public Utility Regulatory Act §56.301, regarding financial assistance from the Texas universal service fund to support a free telephone service that offers blind and visually impaired residents access to the text of newspapers using synthetic speech. This new section is adopted under Project Number 31864. The rule sets forth requirements the Audio Newspaper Program (ANP) provider must meet and the eligibility and registration requirements for users. Further, the rule outlines the process for selecting the ANP through a request for proposal.

The commission received comments on the proposed new section from the Office of Public Utility Council (OPUC) and the National Federation of the Blind of Texas (NFBT).

Recommended Revisions to §26.424(c)(1)(B)

OPUC commented that the components of the ANP should be clearly spelled out so that the blind and visually-impaired have access to a service that is convenient and user friendly. OPUC recommended that the commission add an additional requirement to §26.424(c)(1)(B) specifying

that a menu of articles be provided, as well as the menu of newspapers. In their written comments, NFBT agreed with OPUC.

Commission response

While the commission agrees with OPUC and NFBT that this is an important feature for the ANP to provide, it disagrees that it should be required as part of the rule. Instead, it will be part of the request for proposal.

Recommended Revisions to §26.424(c)(1)(B)(v)

OPUC commented that proposed §26.424(c)(1)(B)(v) does not specify whether access to customer service would be available through local number only, or whether a nationwide toll-free number would also be provided. OPUC opined that nationwide toll-free access should be available when a registered user is traveling. Further, OPUC stated that “regular business hours” is not defined. OPUC contended that the rules should define regular business hours and include a minimum standard such as five or more days per week and eight or more hours a day. NFBT agreed with OPUC, but felt that this could be best addressed in the request for proposal issued by the commission.

Commission response

The commission agrees with OPUC that access to customer service is important. The commission wants to ensure that ANP subscribers have access to customer service at least eight hours a day, five days a week. However, the commission concurs with NFBT that it is more appropriate to address this issue in the request for proposal.

Recommended Revisions to §26.424(c)(2)(A)

In written comments, OPUC sought to include a requirement under §26.424(c)(2)(A) requiring the two Texas newspapers to be geographically specific to the local area covered by the ANP, or have a minimum circulation of 150,000. OPUC argued that there is a need to reach a balance in the rule so that a variety of newspapers can be made available, while ensuring, through a restriction that the papers used to meet the ANP's required two Texas newspaper minimum are actually of interest to persons targeted by the program. NFBT recommended that the commission include the requirement under §26.424(c)(2)(A) that all ANP subscribers in Texas should have access to all newspapers on the system, regardless of geographical location.

Commission response

While the commission appreciates OPUC's concern regarding targeting specific geographic areas, it does not believe it is appropriate to require a minimum circulation or a geographic designation as suggested. In order to solicit more newspapers into the program, the ANP should be allowed as much flexibility as possible. Further, elements such as data availability and willingness to participate are beyond the ANP's control and can not be enforced. In addition, the commission does not believe it is necessary to add the requirement that ANP subscribers in Texas should have access to all newspapers on the system regardless of geographic location as that is already implied in the rule itself.

Recommended Revisions to §26.424(c)(4)

OPUC commented that while it supported the commission's efforts to encourage ANP providers to make Spanish newspapers available through the ANP, it was equally supportive of making available other foreign papers, small town weekly papers and daily college papers. OPUC suggested additional language to the "Content Acquisition" section of the rule. NFBT agreed with OPUC and recommended that the "Content Acquisition" section, §26.424(c)(4), require that the ANP provider begin service with at least two Texas newspapers, and should steadily add newspapers during the first two years of operation until it has a total of at least ten Texas newspapers by the end of that period.

Commission response

The commission appreciates and shares OPUC's concern regarding variety for ANP subscribers; however the commission does not believe that it is necessary to add such a requirement to the rule. In order to solicit more newspapers into the program, the ANP should be allowed as much flexibility as possible. Further, elements such as data availability from newspapers and their willingness to participate are beyond the ANP's control and cannot be enforced. In addition, although the commission appreciates NFBT's desire to see the ANP program succeed quickly, the commission believes that 10 Texas papers within two years may prove an unreasonable expectation for an ANP and rejects NFBT's recommendation.

This section is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2005) (PURA), which provides the commission with the

authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002, §14.052 and §56.301.

§26.424. Audio Newspaper Assistance Program.

- (a) **Purpose.** The provisions of this section establish a program providing financial assistance from the Texas universal service fund to support a free telephone service that allows blind and visually impaired persons access to the text of newspapers by using synthetic speech.
- (b) **Definitions.** The following words and terms shall have the following meanings when used in this section, unless the context clearly indicates otherwise.
- (1) **Texas Newspaper** — a serial publication that contains news on current events of special or general interest published within the state of Texas;
 - (2) **National Newspaper** — a serial publication that contains news on current events of special or general interest that is widely distributed in all fifty states;
 - (3) **Registered User** — a person who has met the eligibility criteria pursuant to subsection (e) of this section and has registered with the Audio Newspaper Program; and
 - (4) **Audio Newspaper Program (ANP) Provider** — the carrier awarded the Audio Newspaper Program contract by the commission.
- (c) **Requirements Audio Newspaper Program (ANP) Provider Must Meet.** The provider of the ANP shall meet all of the requirements listed below.
- (1) **Components of ANP.**
 - (A) The ANP shall provide registered users the following:
 - (i) access to ANP through a touch-tone phone;

- (ii) access to ANP 24 hours a day, seven days a week;
 - (iii) access through a local number or through a nationwide toll-free number where local access is not available; and
 - (iv) access through a personal identification number.
- (B) The ANP shall make available to registered users the following call features:
- (i) complete text of each participating newspaper in the form of synthetic speech;
 - (ii) menu choices and navigation features that facilitate movement through menu items or articles;
 - (iii) ability to select one voice from a variety of choices and adjust the speaking rate of the selected voice;
 - (iv) commands for obtaining help, searching text, and spelling text with the capacity to interrupt the presentation and return to the information being read when the help, search, or spell command is activated; and
 - (v) access to customer service during regular business hours.
- (C) The ANP shall also have the following additional features:
- (i) capability of providing information to determine the number of registered users; and
 - (ii) capability of providing information to determine the monthly minutes of use.

- (2) **Content.** The ANP shall provide access to the contents of both Texas newspapers and National newspapers:
 - (A) **Texas Newspapers.** the ANP shall have a minimum of two Texas newspapers available to registered users; and
 - (B) **National Newspapers.** the ANP may allow registered users access to National newspapers to the extent they are available.
- (3) **Updates.** The ANP provider will update each newspaper carried as soon as practicable following the ANP's receipt of electronic files and will provide access to the current day's or most recent edition, the previous day's edition, and the current or most recent Sunday edition.
- (4) **Content Acquisition.** The ANP provider shall attempt to integrate additional Texas newspapers, including Spanish language newspapers, into the ANP. Newspapers participating in the ANP are not eligible for payment.
- (d) **Reporting Requirements.** The ANP provider shall submit the following reports to the commission every year by April 1:
 - (1) **Content Acquisition Report.** The content acquisition report shall consist of the following:
 - (A) a list of the newspapers included in the ANP and indicate those newspapers added to the ANP during the previous 12 months;
 - (B) a list of the newspapers the ANP has attempted, but failed, to add to the ANP including for each:
 - (i) date(s) the newspaper was contacted;
 - (ii) method(s) used to contact the newspaper; and

- (iii) reason(s) why the newspaper was not added to the ANP.
 - (C) a list of the newspapers that the ANP stopped providing in the previous year, including for each:
 - (i) date the ANP stopped providing the newspaper; and
 - (ii) reason(s) why ANP stopped providing the newspaper.
 - (2) **Annual Usage Report.** The annual usage report shall consist of the following:
 - (A) the number of registered users;
 - (B) the number of registered users in the previous year; and
 - (C) the total minutes of use for all registered users.
 - (3) **Additional Reporting.** The commission may specify additional reporting requirements.
- (e) **Eligibility and Registration.**
- (1) **Eligibility.** A person will be considered eligible for the ANP if the person produces evidence satisfactory to the ANP that said person resides within the state of Texas and:
 - (A) is registered with a state or private vocational rehabilitation agency for the blind;
 - (B) is enrolled in a public school special education program for the blind or state residential school for the blind;
 - (C) is registered with the Texas State Library and Archives Talking Book Program; or
 - (D) is in possession of a letter from an M.D. or a D.O. certifying that said person is legally blind or is visually impaired.

- (2) **Registration.** The ANP provider shall allow eligible persons to register for the ANP through a mailing address or a fax number.
- (3) **Records Showing Eligibility.** For each registered user, the ANP provider shall retain (a) electronic and/or photocopy records of all evidence produced to the ANP provider that satisfies the eligibility requirements described in this subsection and (b) the registered user's contact information. The ANP provider shall produce these records and contact information upon request by the commission.

This agency hereby certifies that the adoption 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 §26.424 relating to Audio Newspaper Assistance Program is hereby adopted with no changes to the text as proposed.

ISSUED IN AUSTIN, TEXAS ON THE 12th DAY OF JUNE 2006.

PUBLIC UTILITY COMMISSION OF TEXAS

PAUL HUDSON, CHAIRMAN

JULIE PARSLEY, COMMISSIONER

BARRY T. SMITHERMAN, COMMISSIONER