

PROJECT NO. 34864

PUC RULEMAKING PROCEEDING TO	§	PUBLIC UTILITY COMMISSION
AMEND PUC SUBST. R. §26.415	§	
RELATING TO THE SPECIALIZED	§	OF TEXAS
TELECOMMUNICATIONS	§	
ASSISTANCE PROGRAM (STAP)	§	

**ORDER ADOPTING AMENDMENT TO §26.415
AS APPROVED AT THE JULY 1, 2010 OPEN MEETING**

The Public Utility Commission of Texas (commission) adopts an amendment to §26.415, relating to the Specialized Telecommunications Assistance Program (STAP) with no changes to the proposed text as published in the April 16, 2010, issue of the *Texas Register* (35 TexReg 2919). The amendment clarifies the responsibilities of the commission, vendors, and service providers in the STAP and provides reimbursement guidelines. This amendment is adopted under Project Number 34864.

A public hearing was not requested. The commission received comments on the proposed amendment from the Office of Public Utility Council (OPUC).

OPUC supports the amendment because it clarifies the responsibilities of the commission and enhances requirements for vendors and service providers participating in the STAP. OPUC states that the changes increase oversight, accountability, transparency and ensure consumers receive quality devices at a fair market price. OPUC states that it believes the changes will hold vendors more accountable for their actions and supports vendor ineligibility for those vendors that do not adhere to the STAP administration requirements. OPUC states that the following results will follow from adoption of the rule amendments: (1) the prices vendors charge for

STAP equipment provided will be more equitable to the prices charged to non-STAP customers purchasing the same devices; (2) vendors will be encouraged to provide STAP customers with better-made, longer-lasting devices; (3) vendors will be required to stay better informed regarding program updates; (4) customers will have an adequate opportunity to test devices and return unsuitable products; (5) the commission's responses to inappropriate vendor activities will be better defined; and (6) the commission's role in resolving customer/vendor disputes will be clarified. OPUC states that the amendment will ensure that vendors maintain compliance with applicable regulations and good business relationships at both the federal and state levels to participate in STAP.

OPUC suggests including a statement in subsection (b)(3), to the effect that failure to adhere to STAP requirements and procedures will result in the ineligibility of a vendor or service provider to receive voucher reimbursement, or in the alternative, reference new subsection (c)(3), relating to vendor procedural non-compliance and ineligibility.

Commission Response

The commission appreciates OPUC's comments and shares its opinion that the amendment will improve the STAP. The commission declines to make the modification suggested by OPUC because subsection (b)(3) already references subsection (c), and the commission does not wish to emphasize subsection (c)(3) over subsections (c)(1) or (c)(2). Each of these paragraphs provides criteria under which a STAP vendor may become ineligible for voucher reimbursement.

All comments, including any not specifically referenced herein, were fully considered by the commission.

This amendment is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2009) (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, PURA §56.153(c) and §56.154, which provide the Commission with certain authority concerning STAP.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 56.153(c), and 56.154.

§26.415. Specialized Telecommunications Assistance Program (STAP).

- (a) **Purpose.** The provisions of this section are intended to establish procedures for a specialized telecommunications assistance program and for reimbursement to vendors and service providers who submit vouchers issued under the program.
- (b) **Program responsibilities.**
- (1) **Texas Department of Assistive and Rehabilitative Services, Division for Rehabilitation Services, Office for Deaf and Hard of Hearing Services (DHHS) responsibilities.** DHHS is responsible for:
- (A) Adopting rules and procedures regarding the issuance of STAP vouchers to eligible individuals;
- (B) Establishing a database containing sufficient information to enable the commission to verify the issuance of a particular STAP voucher; and
- (C) Promoting the STAP program by means or efforts that provide contact information for persons interested in the voucher program.
- (2) **Commission responsibilities.** The commission is responsible for:
- (A) Adopting rules and procedures regarding the reimbursement to vendors for properly redeemed STAP vouchers;
- (B) Administering the TUSF to ensure adequate funding of the specialized telecommunications assistance program;
- (C) Appointing and providing administrative support for the Relay Texas Advisory Committee (RTAC), in accordance with the Public Utility Regulatory Act (PURA), §56.110 and §56.112 if funding is available; and

(D) Resolving disputes regarding the amount or propriety of the payment for a device or service or whether the device or service is appropriate or adequate to meet the need of the person to whom the DHHS issued a voucher.

(3) **Vendor and service provider responsibilities.** Vendors and service providers are responsible for adhering to the commission's STAP administration requirements as provided in subsection (c) and with the commission's STAP procedures as posted and periodically updated on the commission's web site (www.puc.state.tx.us).

(c) **Program administration.**

(1) **Vendor and service provider registration.** A vendor or service provider who accepts STAP vouchers shall register with the commission and agree to comply with this section and the commission's STAP procedures as posted and periodically updated on the commission's web site. A vendor's or service provider's STAP registration shall include its name, contact person, address, telephone number, facsimile number (if available), and information sufficient to permit the commission's STAP administrator to reimburse the vendor or service provider by direct deposit rather than by check. If a vendor's or service provider's registration information is not complete or accurate, the STAP administrator shall notify the vendor or service provider, by certified mail, and the administrator of the Texas Universal Service Fund (TUSF) that the vendor or service provider is no longer eligible to receive voucher reimbursements under this program. The

commission is not responsible if the vendor or service provider has not provided a correct mailing address for receipt of this notice. Reimbursements for vouchers that are otherwise eligible will be resumed after the vendor or service provider has completed and corrected its registration.

- (2) **Vendor and service provider in good standing.** A vendor or service provider that is suspended or barred from doing business with the State of Texas or with the federal government is not eligible to participate in the this program. If a vendor or service provider is registered under the STAP and becomes barred from doing business with the State of Texas or the federal government, the STAP administrator shall notify the vendor or service provider, by certified mail, and the TUSF administrator that the vendor or service provider is no longer eligible to receive voucher reimbursements under the STAP. The commission is not responsible if the vendor or service provider has not provided a correct mailing address for receipt of this notice. Reimbursements for vouchers that are otherwise eligible will be resumed if the vendor or service provider is returned to good standing with the State of Texas and federal government.
- (3) **Vendor or service provider adherence to commission STAP procedures.** Any vendor or service provider not in compliance with the commission's STAP procedures as posted and periodically updated on the commission's web site, within 30 days from the date the commission's procedures or changes thereto are posted, is not eligible to receive voucher reimbursements under the STAP. The STAP administrator may permanently bar, or suspend for a specified period of

time, any vendor or service provider that the STAP administrator identifies as having billed the STAP for devices or services not provided to eligible customers.

- (4) **Vendor or service provider reimbursement.** A vendor or service provider who exchanges a STAP voucher for the purchase of approved equipment or services in accordance with the requirements of the STAP may request reimbursement by the commission. If all reimbursement requirements are met, the STAP administrator shall approve reimburse to the vendor or service provider in an amount that is the lesser of: the face value of the STAP voucher, the actual retail price of the equipment or service as charged by the vendor or service provider to all STAP and non-STAP customers for the same equipment or service, or 125% of the manufacturer's suggested retail price for the device actually provided to the STAP customer as posted on the manufacturer's web site or provided by the manufacturer upon request.

- (A) TUSF disbursements shall be made only upon receipt from the vendor or service provider of:

- (i) The vendor's copy of the DHHS 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 a 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) 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) The commission may delay payment of a voucher to a vendor or 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 DHHS issued the voucher until the dispute is resolved.
- (F) The commission shall process a voucher for payment no sooner than ten working days from the date the STAP customer received the device or service.
- (G) The vendor or service provider shall refund a reimbursement if the device is returned to the vendor within 30 days of receipt or if the service is not used by the STAP customer within 30 days of its availability.
- (H) A STAP vendor or service provider will not be reimbursed for a voucher that is submitted to the STAP administrator more than six months after the voucher's expiration date.
- (I) 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 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 §26.415 relating to the Specialized Telecommunications Assistance Program (STAP) is hereby adopted with no changes to the text as proposed.

SIGNED AT AUSTIN, TEXAS this the 9th day of JULY 2010.

PUBLIC UTILITY COMMISSION OF TEXAS

BARRY T. SMITHERMAN, CHAIRMAN

DONNA L. NELSON, COMMISSIONER

KENNETH W. ANDERSON, JR., COMMISSIONER