

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter P. TEXAS UNIVERSAL SERVICE FUND.

§26.419. Telecommunication Resale Providers Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF) for Lifeline Service.

- (a) **Scope and Purpose.** This section provides the requirements for the commission to designate certificated providers of local exchange telephone service that provide this service solely through the resale of an incumbent local exchange carrier's (ILEC) services as an eligible telecommunications provider (ETP) for the specific purpose of receiving funds for Lifeline Service from the Texas Universal Service Fund (TUSF) under §26.412 of this title (relating to the Lifeline Service Program). Only Resale ETPs as defined by §26.412(b)(2) of this title shall qualify to receive universal service support under this program.
- (b) **Requirements for establishing ETP service areas.**
- (1) **Texas High Cost Universal Service Plan (THCUSP) service area.** THCUSP service area shall be based upon wire centers (WCs) or other geographic area as determined appropriate by the commission. A telecommunications provider may be designated an ETP for any or all WCs contained within its certificated service area. An ETP must serve an entire WC or other geographic area as determined appropriate by the commission.
- (2) **Small and Rural ILEC Universal Service Plan (SRIUSP) service area.** SRIUSP service area for an ETP serving in a small or rural ILEC's territory shall include the entire study area of such small or rural ILEC.
- (c) **Criteria for designation of ETPs.** A Resale ETP as defined by §26.412(b)(2) of this title shall be eligible to receive TUSF support pursuant to §26.412 of this title for Lifeline Service only in each service area of a large company (THCUSP) or the study area of a small company (SRIUSP) for which it seeks ETP designation if it meets the following requirements:
- (1) the Resale ETP defines its ETP service area pursuant to subsection (b) of this section and assumes the obligation to offer service to any customer in its ETP service area;
- (2) offers Lifeline Services as provided by 47 C.F.R. Part 54, Subpart E; and
- (3) advertises the availability of, and the charges for, supported services using media of general distribution.
- (d) **Requirements for application for Resale ETP designation and commission processing of application.**
- (1) **Requirements for notice and contents of application for Resale ETP designation.**
- (A) **Notice of application.** Notice shall be published in the *Texas Register*. The presiding officer may require additional notice. Unless otherwise required by the presiding officer or by law, the notice shall include at a minimum a description of the service area for which the applicant seeks designation, the proposed effective date of the designation, and the following language: "Persons who wish to comment on this application should notify the Public Utility Commission by (specified date, ten days before the proposed effective date). Requests for further information should be mailed to the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or you may call the Public Utility Commission's Customer Protection Division at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136, or use Relay Texas (800) 735-2989 to reach the commission's toll free number (888) 782-8477.
- (B) **Contents of application.** A certificated provider of local exchange telephone service seeking to be designated as a Resale ETP shall file with the commission an application complying with the requirements of this section. In addition to copies required by other

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter P. TEXAS UNIVERSAL SERVICE FUND.

§26.419(d)(1)(B) continued

commission rules, one copy of the application shall be delivered to the commission staff and one copy shall be delivered to the Office of Public Utility Counsel. The application shall:

- (i) demonstrate that the applicant is a certificated provider of local exchange telephone service that resells basic local telecommunication services, as defined in §26.403 of this title (relating to Texas High Cost Universal Service Plan (THCUSP));
- (ii) demonstrate that the applicant assumes the obligation to offer Lifeline Services, as defined in §26.412 of this title, to any customer in its certificated service area;
- (iii) demonstrate that the applicant will advertise the availability of and the charges for designated services, as defined in §26.403 of this title, using media of general distribution;
- (iv) contain a statement detailing the content of the notice the applicant proposes for publication in the *Texas Register* regarding the application as well as a brief statement explaining why the proposed notice is reasonable and that it complies with applicable law;
- (v) provide a copy of the text of the notice;
- (vi) state the proposed effective date of the designation; and
- (vii) provide any other information the applicant wants considered in connection with the commission's review of its application.

(2) **Commission processing of application.**

- (A) **Administrative review.** An application considered under this section may be reviewed administratively unless the certificated provider of local exchange telephone service requests the application be docketed or the presiding officer, for good cause, determines at any point during the review that the application should be docketed.
 - (i) The effective date of the Resale ETP designation shall be no earlier than 30 days after notice is published in the *Texas Register*.
 - (ii) The application shall be examined for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant shall be notified within ten working days of the filing date of the specific deficiency in its application. The earliest possible effective date of the application shall be no earlier than 30 days after notice is published in the *Texas Register*.
 - (iii) While the application is being administratively reviewed, the commission staff and the staff of the Office of Public Utility Counsel may submit requests for information to the applicant. Three copies of all answers to such requests for information shall be provided to the commission staff and the Office of Public Utility Counsel within ten days after receipt of the request by the applicant.
 - (iv) No later than 20 days after the completion of notice, interested persons may provide written comments or recommendations concerning the application to the commission staff. The commission staff shall, and the Office of Public Utility Counsel may, file with the presiding officer written comments or recommendations regarding the application.
 - (v) No later than 35 days after the proposed effective date of the application, the presiding officer shall issue an order approving, denying, or docketing the application.

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter P. TEXAS UNIVERSAL SERVICE FUND.

§26.419 (d)(2) continued

- (B) **Approval of application.** The application will be approved by the presiding officer if it meets all the following requirements:
- (i) The provision of service constitutes basic local telecommunications service as defined in §26.403 of this title and Lifeline Service as defined in §26.412 of this title.
 - (ii) Notice was provided as required by this section.
 - (iii) The applicant has met the requirements contained in this subsection.
 - (iv) The ETP designation is consistent with the public interest in a technologically advanced telecommunications system and consistent with the preservation of universal service.
- (C) **Docketing.** If, based on the administrative review, the presiding officer determines that one or more of the requirements has not been met, the presiding officer shall docket the application. The requirements of this subsection may not be waived.
- (D) **Review of the application after docketing.** If the application is docketed, the effective date of the application shall be automatically suspended until an order is issued in the proceeding granting the application. Three copies of all answers to requests for information shall be filed with the commission within ten days after receipt of the request. Affected persons may move to intervene in the docket, and a hearing on the merits shall be scheduled. A hearing on the merits shall be limited to issues of eligibility. The application shall be processed in accordance with the commission's rules applicable to docketed cases.
- (e) **Relinquishment of ETP designation.** A certificated provider of local exchange telephone service may seek to relinquish its ETP designation. The relinquishment of an ETP designation does not relieve the certificated provider from its obligation to provide Lifeline Service.
- (f) **Relinquishment for non-compliance.** The TUSF administrator shall notify the commission when the TUSF administrator is aware that a Resale ETP is not in compliance with the requirements of subsection (c) of this section. The commission shall revoke the ETP designation of any Resale ETP determined not to be in compliance with subsection (c) of this section.
- (g) **Requirements for annual affidavit of compliance to receive TUSF support.** A Resale ETP serving a rural or non-rural study area shall comply with the following requirements for annual compliance for the receipt of TUSF support for Lifeline Services:
- (1) **Annual Affidavit of Compliance.** On or before September 1 of each year, a Resale ETP that receives disbursements from the TUSF shall file with the commission an affidavit certifying that the ETP is in compliance with the requirements for receiving money from the universal service fund and requirements regarding the use of money from each TUSF program from which the telecommunications provider receives disbursements.
 - (2) **Filing Affidavit.** The affidavit used shall be the annual compliance affidavit approved by the commission.