

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter P. TEXAS UNIVERSAL SERVICE FUND.

§26.406. Implementation of the Public Utility Regulatory Act §56.025.

- (a) **Purpose.** The purpose of this section is to implement the provisions of the Public Utility Regulatory Act (PURA) §56.025.
- (b) **Application.** An incumbent local exchange company (ILEC) serving fewer than 31,000 access lines and each cooperative serving fewer than 31,000 access lines, and that on June 1, 2013, is not an electing company under PURA Chapter 58 or 59, may seek to recover funds from the Texas Universal Service Fund (TUSF) under this section in the following circumstances:
- (1) **Commission reduction in the amount of high cost assistance fund.** In the event of a commission order, rule, or policy, the effect of which is to reduce the amount of the high cost assistance fund support received by the ILEC as of February 10, 1998, except an order entered in an individual company revenue requirement proceeding, the commission shall allow, through the universal service fund, an ILEC to replace the reasonably projected reduction in revenues caused by that regulatory action.
 - (2) **Change in federal universal service fund revenues.** In the event of a Federal Communications Commission order, rule, or policy, the effect of which is to change the federal universal service fund revenues of an ILEC or change costs or revenues assigned to the intrastate jurisdiction, the commission shall, through either the universal service fund or an increase to rates if that increase would not adversely impact universal service, replace the reasonably projected change in revenues caused by the regulatory action.
 - (3) **Commission change in intraLATA dialing access policy.** In the event of a commission change in its policy with respect to intraLATA “1+” dialing access, the commission shall, through either the universal service fund or an increase to rates if that increase would not adversely impact universal service, replace the reasonably projected reduction in contribution caused by the action. Contribution for purposes of this paragraph equals average intraLATA long distance message telecommunications service (MTS) revenue, including intraLATA toll pooling and associated impacts, per minute less average MTS cost per minute less the average contribution from switched access times the projected change in intraLATA “1+” minutes of use.
 - (4) **Other governmental agency action.** In the event of any other governmental agency issuing an order, rule, or policy, the effect of which is to increase costs or decrease revenues of the intrastate jurisdiction, the commission shall, through either the universal service fund or an increase to rates, if that increase would not adversely impact universal service, replace the reasonably projected increase in costs or decrease in revenues caused by that regulatory action.
 - (5) **Distribution of support.** After December 31, 2013, the commission may not distribute support granted under this section, including any support granted before that date, to a local exchange company or cooperative that serves greater than 31,000 access lines or that is an electing company under PURA Chapters 58 or 59 on June 1, 2013.
- (c) **Requirements of the ILEC.**
- (1) **Burden of proof.** The ILEC seeking to recover funds from the TUSF under this section has the burden of proof.
 - (2) **Contents of application.** The ILEC seeking to recover funds from the TUSF under this section shall file an application:
 - (A) complying with the commission’s Procedural Rules §22.73 of this title (relating to General Requirements for Applications); and
 - (B) providing the amount requested from the TUSF under this section, the calculation of the amount requested, and detailed documentation and workpapers supporting the calculations.

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- (3) **Notice.** The ILEC seeking to recover funds from the TUSF under this section shall provide notice as required by the presiding officer pursuant to the commission's Procedural Rules §22.55 of this title (relating to Notice in Other Proceedings). At a minimum, the notice shall state that the ILEC is requesting to recover funds from the TUSF under this section and the Public Utility Regulatory Act §56.025 and state the amount the ILEC is requesting to recover. At a minimum, the notice shall be published in the *Texas Register*.
- (d) **Commission processing of the application.**
- (1) The application shall be processed under the commission's Procedural Rules.
 - (2) The commission shall process applications under this section promptly and efficiently.
- (e) **Reporting requirements.** An ILEC awarded support under this section shall provide the TUSF administrator a copy of the commission's final order indicating the amount of support it is to receive under this section.