

**PROJECT NO. 40176**

<b>RULEMAKING TO AMEND SUBST. R. 26.415, RELATING TO SPECIALIZED TELECOMMUNICATIONS ASSISTANCE PROGRAM (STAP)</b>	§ § § § §	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**PROPOSAL FOR PUBLICATION OF AMENDMENTS TO §26.415  
AS APPROVED AT THE MARCH 22, 2012 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes amendments to §26.415, relating to Specialized Telecommunications Assistance Program (STAP). The amendments delete the paragraph related to the responsibilities of the Texas Department of Assistive and Rehabilitative Services, Division for Rehabilitation Services, the Office for Deaf and Hard of Hearing Services (DHHS) and other DHHS references; amend the description of who can sign for proof of delivery of equipment or services to allow spouses to sign; amend the description of how vendors can obtain reimbursement to specify that the STAP administrator will not authorize reimbursement of any voucher more than 120 days after the exchange date or the proof of delivery; and make other non-substantive changes. Project Number 40176 is assigned to this proceeding.

Eileen Alter, Relay Texas Administrator, Operations Division, has determined that for each year of the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendments.

Ms. Alter has determined that for each year of the first five years the proposed amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be the simplification of the rule by deleting unnecessary references to DHHS; updating of the rule; and allowing vendors to deliver equipment to the spouse of a recipient instead of limiting delivery directly to the recipient, parent, or guardian should the recipient not be available to receive a delivery due to the recipient's absence, age, health, or other reasons. The amendments will also benefit the public because they will enable the commission to more effectively manage and account for the disbursement of funds under the STAP program by specifying that the STAP administrator will not authorize reimbursement of any voucher more than 120 days after the exchange date or the proof of delivery.

There will be no adverse economic effect on small businesses or micro-businesses as a result of enforcing the amendments. Therefore, no regulatory flexibility analysis is required. There is no anticipated economic cost to persons who will be required to comply with the proposed amendments.

Ms. Alter has also determined that for each year of the first five years the proposed amendments are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

The commission staff will conduct a public hearing on the proposed amendments if requested pursuant to the APA, Texas Government Code §2001.029, at the commission's offices located in

the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The request for a public hearing must be received by Monday, May 7, 2012. If requested the public hearing will be held on Tuesday, June 5, 2012, at 9:30 a.m.

Comments on the proposed amendments may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by Monday, May 7, 2012. Reply comments may be submitted by Monday, May 21, 2012. Sixteen copies of comments on the proposed amendments are required to be filed pursuant to §22.71(c) of this title. Comments should be organized in a manner consistent with the organization of §26.415. All comments should refer to Project Number 40176.

The amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2010), which provides authority to the commission to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and specifically, §56.151, which requires the commission and the Texas Commission for the Deaf and Hard of Hearing (now DHHS) to establish the STAP; §56.154(a), which requires the commission to pay the vendor or service provider, using monies from the universal service fund, within 45 days after receiving a voucher issued pursuant to the STAP and §56.154(b), which authorizes the commission to investigate whether a voucher represents a valid transaction.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 56.151, and 56.154.

**§26.415. Specialized Telecommunications Assistance Program (STAP).**

(a) (No change.)

(b) **Program responsibilities.**

(1) **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 voucher was issued.

(2) **Vendor and service provider responsibilities.** Vendors and service providers are responsible for adhering to the requirements set forth in this section and the commission's STAP procedures as posted on the commission's web site ([www.puc.state.tx.us](http://www.puc.state.tx.us)).

(c) **Program administration.**

(1)-(2) (No change.)

(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 on the commission's web site, within 30 days of the commission's posting of any new or amended procedures, 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 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, the signature of the recipient's parent, guardian, spouse, or the signature of a person receiving the delivery at the delivery address who is at least 18 years of age.
  - (iii) (No change.)
- (B)-(G) (No change.)
- (H) A STAP vendor or service provider must submit voucher reimbursement requests, along with sufficient and accurate supporting documentation, by the deadline specified in the commission's STAP procedures. The

deadline specified in the commission's STAP procedures shall be no later than 120 days after the exchange date on the voucher or on the proof of delivery. The STAP administrator shall not authorize reimbursement of any voucher if the voucher or its sufficient and accurate supporting documentation is submitted after the deadline specified in the commission's STAP procedures.

- (I) (No change.)
  
- (J) Any request for reimbursement pending on the effective date of this subparagraph shall be denied by the STAP administrator if the vendor fails to submit the requisite voucher or sufficient and accurate supporting documentation that is sufficient and accurate within 120 days after the effective date of this subparagraph.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 23rd DAY OF MARCH 2011 BY THE  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADRIANA A. GONZALES**

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