

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS

Subchapter G. ADVANCED SERVICES

§26.141. Distance Learning, Information Sharing Programs, and Interactive Multimedia Communications.

- (a) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) **Distance learning** — Instruction, learning, and training that is transmitted from one site to one or more sites by telecommunications services that are used by an educational institution predominantly for such instruction, learning, or training, including video, data, voice, and electronic information.
 - (2) **Educational institution** — Accredited primary or secondary schools owned or operated by state and local government entities or by private entities; institutions of higher education as defined by the Education Code, §61.003(13); the Texas Education Agency, its successors and assigns; regional education service centers established and operated pursuant to the Education Code, Chapter 8; and the Texas Higher Education Coordinating Board, its successors and assigns.
 - (3) **Information sharing program** — Instruction, learning, and training that is transmitted from one site to one or more sites by telecommunications services that are used by a library predominantly for such instruction, learning, or training, including video, data, voice, and electronic information.
 - (4) **Interactive multimedia communications** — Real-time, two-way, interactive voice, video, and data communications conducted over networks that link geographically dispersed locations. This definition includes interactive communications within or between buildings on the same campus or library site.
 - (5) **Library** — Public library or regional library system as defined by Government Code, §441.122, or a library operated by an institution of higher education or a school district.
- (b) **Telecommunications services eligible for reduced rates.**
- (1) Any tariffed service, if used predominantly for distance learning purposes by an educational institution or information sharing program purposes by a library, is eligible for reduced rates, as set forth in this section.
 - (2) A service is used predominantly for distance learning purposes by an educational institution or information sharing program purposes by a library when over 50% of the traffic carried, whether in video, data, voice, and/or electronic information, is identified for such use pursuant to the requirements of subsection (d) of this section.
- (c) **Coordination with federal discounts.**
- (1) For any discount received pursuant to §23.107 of this title (relating to Educational Percentage Discount Rates (E-Rates)), an eligible school, library or consortia may apply such discount prior to any discount received under subsection (d) or (e) of this section. Any subsequent discount received under this section shall apply to the discounted E-Rate and not the tariffed rate.
 - (2) Any discount received under §23.107 of this title will be applied subsequent to the rate obtained for services offered pursuant to subsection (f) of this section. For purposes of determining the rate to which a discount pursuant to §23.107 of this title will apply, the rates offered under subsection (f) of this section qualify as the lowest corresponding price.
- (d) **Process by which an educational institution or library qualifies for reduced rates other than through a customer-specific contract.** To qualify for a discounted rate, an educational institution or library, as defined in subsection (a) of this section, must provide a sworn affidavit to the dominant certificated telecommunications utility account representative or, if no account representative is assigned, to the business office of the utility.

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Subchapter G. ADVANCED SERVICES

§26.141(d) continued

- (1) The affidavit shall:
 - (A) specify the requested service(s) to be discounted;
 - (B) quantify, if applicable, the requested service(s) to be discounted;
 - (C) state that the discounted service(s) will be used predominantly for distance learning purposes or information sharing program purposes; and
 - (D) specify the intended use(s) of the discounted service(s).
 - (2) The affidavit shall be signed by the administrative head of the institution (e.g., principal, president, chancellor) or library, or a designee given the task and authority to execute the affidavit on behalf of the educational institution or library requesting the discounted rates.
 - (3) No other special form needs to be provided as part of the application process.
 - (4) The educational institution or library shall provide an affidavit each time it orders services that will be used predominantly for distance learning purposes or information sharing program purposes.
- (e) **Interactive multimedia communications services.** Any dominant certificated telecommunications utility that provides interactive multimedia communications services may file a tariff to establish rates at levels necessary, using sound rate-making principles, to recover costs associated with providing such services to educational institutions or libraries. Those interactive multimedia communications services used predominantly for distance learning or information sharing program purposes, however, shall qualify for a 25% discount pursuant to subsection (d) of this section.
- (f) **Customer-specific contracts.** When a service is provided to an educational institution or library pursuant to §26.211 of this title (relating to Rate-Setting Flexibility for Services Subject to Significant Competitive Challenges), the dominant certificated telecommunications utility shall price those components of the service used predominantly for distance learning or an information sharing program no less than 105%, and no greater than 110%, of the customer-specific long-run incremental cost.
- (g) **Cost determination.** Notwithstanding subsections (d) and (e) of this section, once the commission develops cost determination rules for telecommunications services generally, a reduced rate approved under this section shall recover the service-specific long-run incremental costs. In the case of interactive multimedia communications services, however, the commission may allow a rate to be set lower than the long-run incremental cost of a specific service if such is determined to be in the public interest.