

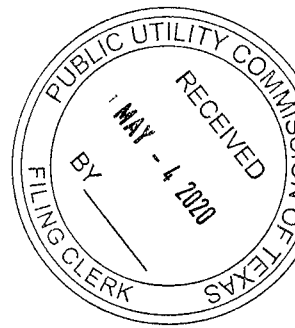


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DOCKET NO. 50277

APPLICATION OF EL PASO
ELECTRIC COMPANY TO AMEND
ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY
FOR AN ADDITIONAL
GENERATING UNIT AT THE
NEWMAN GENERATING STATION

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BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS

CONFIDENTIALITY STATEMENT UNDER
SECTION 4 OF THE PROTECTIVE ORDER

The undersigned attorney for El Paso Electric Company (EPE) submits this statement under section 4 of the Protective Order entered in this case. The response to OPUC 1-7 is exempt from public disclosure pursuant to sections 552.104 and 552.110 of the Public Information Act as confidential information. The response contains information that is commercially sensitive and that is not otherwise readily available to the public. Public release of this information would cause substantial competitive harm to the company from whom the information is obtained and could reasonably provide advantage to a competitor.

The undersigned counsel for EPE has reviewed the information described above sufficiently to state in good faith that the information is exempt from disclosure under the Public Information Act and merits the confidential designation given to it.

Respectfully Submitted,

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DOCKET NO. 50491

APPLICATION OF WES-TEX	§	PUBLIC UTILITY COMMISSION
TELEPHONE COOPERATIVE, INC.	§	
TO ADJUST HIGH COST SUPPORT	§	OF TEXAS
UNDER 16 TAC § 26.407(h)	§	

**JOINT PROPOSED NOTICE OF APPROVAL
AND MOTION TO ADMIT EVIDENCE**

COMES NOW Wes-Tex Telephone Cooperative, Inc. (Wes-Tex) and the Staff (Commission Staff) of the Public Utility Commission of Texas (Commission) (collectively, Parties) and hereby file this Joint Proposed Notice of Approval and Motion to Admit Evidence. In support thereof, the Parties would show the following:

I. INTRODUCTION

On January 27, 2020, Wes-Tex filed an application to adjust the support it receives from the Small and Rural Incumbent Local Exchange Company Universal Service Plan (high-cost support) without effect to its current rates under 16 Texas Administrative Code (TAC) § 26.407(h). Wes-Tex is a Category 1 small incumbent local exchange company (ILEC) with an adjusted 2017 rate of return of 0.13%. In its application, Wes-Tex requested to increase the high-cost support it receives by \$238,661 per year. On April 24, 2020, Commission Staff filed its Recommendation on Final Disposition, recommending that the application be approved in the amount of an additional \$238,661 per year.

On March 3, 2020, Order No. 2 in this proceeding was issued, requiring the Parties to file a joint proposed notice of approval, including proposed findings of fact, conclusions of law, and ordering paragraphs. Therefore, this Joint Proposed Notice of Approval and Motion to Admit Evidence is timely filed.

Wes-Tex and Commission Staff are the only parties to this docket, and no party requested a hearing on the merits. Based on Commission Staff's recommendation of approval of the application, the Parties jointly propose that the Notice of Approval attached to this pleading as Attachment 1 be approved.

II. MOTION TO ADMIT EVIDENCE

The Parties request that the following evidence be admitted into the record:

- (1) Wes-Tex's Application and accompanying attachments, partially under confidential seal, filed January 27, 2020 (AIS Item Nos. 1 and 2);

- (2) Wes-Tex's Acknowledgment of Receipt, confirming that notice would be published in the *Texas Register* February 14, 2020, filed February 3, 2020 (AIS Item No. 5);
- (3) Commission Staff's Recommendation on Sufficiency of the Application and Notice, filed February 27, 2020 (AIS Item No. 6);
- (4) Wes-Tex's Affidavit of Notice, affirming that notice was properly given to customers and to the Office of Public Utility Counsel (OPUC), filed March 10, 2020 (AIS Item No. 8);
- (5) Wes-Tex's Letter Correction to the Application, filed March 24, 2020 (AIS Item No. 9); and
- (6) Commission Staff's Recommendation on Final Disposition, filed April 24, 2020 (AIS Item No. 10).

III. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed to the attached Joint Proposed Notice of Approval, which would approve Wes-Tex's application to adjust its high-cost support, resulting in an increase of \$238,661 per year. The Parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs from the attached Joint Proposed Notice of Approval.

IV. PRAYER

The Parties respectfully request that all items requested above be admitted into the record of this proceeding as evidence and that the Commission approve the attached Joint Proposed Notice of Approval.

Dated: May 4, 2020

Respectfully submitted,

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By /s/ D. Daniel Gibson /s/
D. Daniel Gibson, State Bar No. 24045939

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 4, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ D. Daniel Gibson /s/

D Daniel Gibson

DOCKET NO. 50491

APPLICATION OF WES-TEX	§	PUBLIC UTILITY COMMISSION
TELEPHONE COOPERATIVE, INC.	§	
TO ADJUST HIGH COST SUPPORT	§	OF TEXAS
UNDER 16 TAC § 26.407(h)	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval approves the application of Wes-Tex Telephone Cooperative, Inc. (Wes-Tex) for an adjustment to the annual high-cost support it receives from the Small and Rural Incumbent Local Exchange Company Universal Service Plan (high-cost support) in accordance with 16 Texas Administrative Code (TAC) § 26.407 without effect to its current rates. The Commission approves the application.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicant

1. Wes-Tex is corporation registered with the Texas Secretary of State under file number 10252101 and holds certificate of convenience and necessity number 40092.
2. Wes-Tex is not an incumbent local exchange company (ILEC) that has elected for an infrastructure commitment and corresponding regulation under the Public Utility Regulatory Act (PURA)¹ Chapter 58 or 59.
3. Wes-Tex is an ILEC who on September 1, 2013, together with all local exchange companies affiliated with the company or cooperative on that date, served 31,000 or fewer access lines in this state and, therefore, a Small Provider as set forth in PURA § 56.032(a)(2).
4. Wes-Tex is a small ILEC that has been designated as an eligible telecommunications provider (ETP) by the Commission in accordance with 16 TAC § 26.417 is a small independent local exchange carrier as defined in 16 TAC § 26.407(b)(1).

Application

1. On January 27, 2020, Wes-Tex filed the application at issue in this docket to adjust the high-cost support it receives under 16 TAC § 26.404 in accordance with 16 TAC § 26.407 without effect to its current rates. Wes-Tex seeks an annual high-cost support increase of

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

\$238,661 above the \$709,152 received for the consecutive 12 months ending January 1, 2020, which equates to an increase of \$19,888 per month, for a new annualized amount of \$947,813.

2. With its application filed on January 27, 2020, Wes-Tex included: (a) its 2017 annual report and the complete set of documents and workpapers that Wes-Tex submitted with its 2017 annual report; (b) Wes-Tex's request to increase its high-cost support; (c) Commission Staff's amended final recommendation in Project No. 49022;² and (d) the testimonies and workpapers of Darren Patrick, of Wes-Tex, and Douglas Meredith, in support of Wes-Tex's request to increase its high-cost support.
3. In Order No. 2 issued on March 3, 2020, the administrative law judge (ALJ) found the application sufficient for further review.

Eligibility – Project No. 49022

4. On December 14, 2018, Wes-Tex opted to have its high-cost support determined under 16 TAC § 26.407(d) in Project No. 49022.
5. On February 13, 2019, Wes-Tex filed its 2017 annual report under 16 TAC § 26.407(d) in Project No. 49022.
6. In its amended final recommendation filed on June 19, 2019 in Project No. 49022, Commission Staff classified Wes-Tex as an under-earning small ILEC (category 1 small ILEC).
7. Wes-Tex is eligible for a high-cost support adjustment as a category 1 small ILEC with a 2017 adjusted rate of return of 0.13%, which is more than three percentage points below the 9.75% rate of return set forth in PURA § 56.032(a)(1).

Rate of Return

8. The minimum reasonable rate of return for a category 1 small ILEC is 9.75%, as provided by 16 TAC §§ 26.407(c)(2) and (3).
9. Wes-Tex's requested increase of \$238,661 in high-cost support will result in a projected rate of return of 2.65% which is still well below 6.75%, the minimum reasonable rate of return.

² Notice of Wes-Tex Telephone Cooperative, Inc. for Texas Universal Service Fund Election Under 16 TAC § 26.407, Project No. 49022 (Jun. 19, 2019).

10. Wes-Tex's requested annual increase of \$238,661 in high-cost support is 140% of the \$709,152 in high-cost support it received for the consecutive 12 months ending January 1, 2020.

Notice

11. On March 10, 2020, Wes-Tex filed the affidavit of Darren Patrick, Wes-Tex's authorized representative, attesting that notice and a full copy of the application was delivered to the Office of Public Utility Counsel (OPUC) on February 13, 2020, and sent to customers via a bill message included with the March 2020 bills.
12. Notice of the application was published in the *Texas Register* on February 14, 2020.
13. In Order No. 2 issued on March 3, 2020, the ALJ found the notice sufficient.

Evidentiary Record

14. On May _____, 2020, Wes-Tex and Commission Staff filed a motion to admit evidence.
15. In Order No. ____ issued on _____, the ALJ admitted the following evidence into the record: (1) Wes-Tex's Application and accompanying attachments, partially under confidential seal, filed on January 27, 2020; (2) Wes-Tex's Acknowledgment of Receipt, confirming that notice would be published in the *Texas Register* on February 14, 2020, filed on February 3, 2020; (3) Commission Staff's Recommendation on Sufficiency and Proposed Procedural Schedule, filed on February 27, 2020 (4) Wes-Tex's Affidavit of Notice affirming that notice was properly given to customers and to the Office of Public Utility Counsel (OPUC), filed on March 10, 2020; (5) Wes-Tex's Letter Correction to Application, filed on March 24, 2020; and (6) Commission Staff's Recommendation on Final Disposition, filed on April 24, 2020.

Informal Disposition

16. At least 15 days have passed since the completion of all notice requirements.
17. Commission Staff and Wes-Tex are the only parties to this proceeding.
18. No protests or motions to intervene were filed.
19. No party requested a hearing and no hearing is necessary.
20. Commission Staff recommended approval of the application.
21. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law:

1. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 52.002, 56.021, and 56.032.
2. Wes-Tex is a public utility as defined in PURA § 51.002(8) and telecommunications utility as defined in PURA § 51.002(11).
3. Wes-Tex is a small provider as set forth in PURA § 56.032(a)(2) and a small ILEC as defined in 16 TAC § 26.407(b)(1).
4. Wes-Tex is not an electing company as defined in PURA §§ 58.002 or 59.021.
5. Notice of the application was provided in compliance with 16 TAC §§ 22.55 and 26.407(h)(3).
6. Wes-Tex's requested increase of \$238,661 in annual high-cost support complies with the cap of 140% of the annualized support it received in the consecutive 12 months ending January 1, 2020, in accordance with PURA § 56.032(h) and 16 TAC § 26.407(g)(1).
7. Wes-Tex's application meets the requirements for approval under PURA § 56.032(h) and 16 TAC §§ 26.407(g) and (h).
8. This application was processed in accordance with the requirements of PURA, the Administrative Procedure Act,³ and Commission rules.
9. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves the application.
2. Wes-Tex will receive an annual increase to its high-cost support that it collects under 16 TAC § 26.404 in the amount of \$238,661, or \$19,888 per month. The total annual high-cost support amount will be \$947,813.
3. The Texas Universal Service Fund (TUSF) administrator must distribute to Wes-Tex TUSF funds consistent with this Notice of Approval promptly and efficiently, effective as of the date of signature of this Notice of Approval.
4. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

³ Tex. Gov't Code ch. 2001.

SIGNED AT AUSTIN, TEXAS the ____ day of _____, 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

**CHRISTOPHER OAKLEY
ADMINISTRATIVE LAW JUDGE**