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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Public Utility Commission
Division:	Legal/Consumer Services
Contact Person:	Kelly Cashman-Grams
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Ectory Lawless, Docket and Records Manager
Address:	502 Deaderick Street, 4 th Floor, Nashville, Tennessee 37243
Phone:	615-770-6850
Email:	Ectory.Lawless@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Andrew Jackson State Office Building		
Address 2:	502 Deaderick Street, Hearing Room 201		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	7/15/2019		
Hearing Time:	9:00 a.m.	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

The Rulemaking Hearing will be held in the Andrew Jackson State Office Building. The entrance is located off of 5th Street between Deaderick Street and Charlotte Avenue. Please bring a state-issued identification card (driver's license or ID) and arrive early enough to allow sufficient time to go through security screening and obtain a visitor's pass. The hearing will begin promptly at 9:00 a.m. (central) in ground floor Hearing Room 201 (HR G.201).

Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1220-04-10	Rules for Collecting Contributions From Telecommunications Providers and Distributing Assistive Telecommunications Equipment to the Qualified Individuals with Disabilities
Rule Number	Rule Title
1220-04-10-.01	Definitions
1220-04-10-.02	Contributions of Providers Funding for the Tennessee Relay Services/ Telecommunications Device Access Program
1220-04-10-.03	Collection of Contributions
1220-04-10-.04	Minimum Eligibility Requirements
1220-04-10-.05	Purchase and Distribution of Assistive Devices
1220-04-10-.06	Maintenance and Repair
1220-04-10-.07	Monthly Telephone Charges
1220-04-10-.08	Confidentiality of Information and Nondiscriminatory Statement

Rule Chapter 1220-04-10 is amended by changing the chapter title to read as follows: Distributing Assistive Telecommunications Equipment to the Qualified Individuals with Disabilities.

Authority: T.C.A. §§ 65-2-102 and 65-21-115.

Rule 1220-04-10-.01, Definitions, is amended by deleting paragraph (7) and renumbering in consecutive order the paragraphs that follow thereafter.

Authority: T.C.A. §§ 65-2-102 and 65-21-115.

Rule 1220-04-10-.02 is amended by removing "Contributions of Providers" from the title so the title reads as follows: **Funding for the Tennessee Relay Services/Telecommunications Device Access Program**.

Rule 1220-04-10-.02 is further amended by deleting paragraphs (1), (4), (5), (6), and (7), and renumbering in consecutive order the paragraphs that remain to read as follows:

- (1) Contributions collected by the state emergency communications board from the telecommunication providers will fund the purchase of assistive communication devices for Tennesseans with disabilities, and other equipment that may be necessary to implement the Act, and in addition, cover the necessary administrative costs (including outreach activities) of the Commission to administer the Program.
- (2) The Commission may create a reserve fund for the Program that will not exceed one million dollars (\$1,000,000) within any given fiscal year, including the contributions for that fiscal year.

Authority: T.C.A. §§ 65-2-102 and 65-21-115.

Rule 1220-04-10-.03, Collection of Contributions, is amended by deleting the rule and its paragraphs and then renumbering the rule numbers that follow in consecutive order.

Authority: T.C.A. §§ 65-2-102 and 65-21-115.

Rule 1220-04-10-.04, Minimum Eligibility Requirements, is amended by deleting the words "or Link-up" from paragraph (4) subparagraph (h) so that as amended subparagraph (h) reads as follows:

- (h) Applicants who meet the federal and/or state qualifications for the Lifeline Telephone Assistance Programs.

Authority: T.C.A. §§ 65-2-102 and 65-21-115.

Rule 1220-04-10-.05, Purchase and Distribution of Assistive Devices, renumbered 1220-04-10-.04, is further amended by correcting the corresponding rule cross-reference in paragraph (3) to read as follows:

- (3) Assistive communication devices awarded to qualified applicants are available for their exclusive use as long as they meet the Minimum Eligibility Requirements listed in 1220-04-10-.03.

Authority: T.C.A. §§ 65-2-102 and 65-21-115.

Rule 1220-04-10-.06, Maintenance and Repair, renumbered 1220-04-10-.05, is further amended by correcting the corresponding rule cross-reference in paragraph (3) to read as follows:

- (3) It is the responsibility of the recipient to return the assistive communication devices to the repair center, as designated by the Commission, for repair. The cost of the repair, and/or coordination with the TDAP Coordinator, shall be the responsibility of the recipient. Special consideration will be given for repair cost by the Commission for recipients who have special financial needs as listed in 1220-04-10-.03(4)(a)-(h).

Authority: T.C.A. §§ 65-2-102 and 65-21-115.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 5/23/19

Signature: 

Name of Officer: Kelly Cashman Grams

Title of Officer: General Counsel

Subscribed and sworn to before me on: 5/23/2019

Notary Public Signature: 

My commission expires on: 3/8/2022

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Filed with the Department of State on: _____

Tre Hargett
Secretary of State

RULES OF TENNESSEE PUBLIC UTILITY COMMISSION

CHAPTER 1220-04-10

~~RULES FOR COLLECTING CONTRIBUTIONS FROM TELECOMMUNICATIONS PROVIDERS AND~~ DISTRIBUTING ASSISTIVE TELECOMMUNICATIONS EQUIPMENT TO THE QUALIFIED INDIVIDUALS WITH DISABILITIES

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1220-04-10-. 0403	Minimum Eligibility Requirements		Nondiscriminatory Statement
1220-04-10-. 0504	Purchase and Distribution of Assistive Devices		

1220-04-10-.01 DEFINITIONS.

- (1) "Act" refers to Chapter 417 of the Public Acts of 1999, now codified at Tenn. Code Ann. § 65-21-115.
- (2) "Applicant" means a person who applies to the Tennessee Public Utility Commission for a device to assist with communication through the basic telephone network.
- (3) "Qualified Applicant" is a person that because of a disability cannot use the basic telephone network effectively without the use of an assistive communications device.
- (4) "Assistive Communication Device" means special equipment that permits individuals who have a disability to communicate effectively over the telephone network.
- (5) "Commission" means the Tennessee Public Utility Commission.
- (6) "Lifeline" means a telephone assistance program that reduces the monthly telephone charges for qualified persons.
- ~~(7) "Link-up" means a telephone assistance program that reduces the non-recurring cost of installing telephone service for qualified persons.~~
- ~~(8)~~(7) "Provider" means a telecommunications service provider or a competing telecommunications provider as defined by Tenn. Code Ann. § 65-4-101 whose annual intra-state gross receipts are greater than five million dollars (\$5,000,000).
- ~~(9)~~(8) "Recipient" means the person whose application for an assistive communications device has been granted by the Commission.
- ~~(10)~~(9) "TDAP" or "Program" refers to the Telecommunications Devices Access Program administered by the Tennessee Public Utility Commission.
- ~~(11)~~(10) "TDAP Coordinator" refers to the individual employed by the Commission to manage the Program.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. **Administrative History:** Original rule filed November 22, 1999; effective February 5, 2000. Amendment filed February 24, 2000; effective May 9, 2000. Repeal and new rule filed December 5, 2006; effective February 18, 2007. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority"

references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

1220-04-10-.02 CONTRIBUTIONS OF PROVIDERS FUNDING FOR THE TENNESSEE RELAY SERVICES/TELECOMMUNICATIONS DEVICE ACCESS PROGRAM.

- ~~(1) Providers shall make contributions to the TDAP in proportion to each Provider's share of the total intra-state gross receipts of all Providers for the most recent calendar year.~~
- ~~(2)(1) Contributions collected by the state emergency communications board from the telecommunication providers for the TDAP will fund the purchase of assistive communication devices for Tennesseans with disabilities, and other equipment that may be necessary to implement the Act, and in addition, cover the necessary administrative costs (including outreach activities) of the Commission to administer the Program.~~
- ~~(3)(2) The Commission shall may create a reserve fund for the Program that will not exceed one million dollars (\$1,000,000) within any given fiscal year, including the contributions for that fiscal year.~~
- ~~(4) For the purposes of this Chapter, the intra-state gross receipts of the Providers shall be those reported on Form UD 16 "Statement of Gross Earnings and Computation of Inspection Fee" filed with the Commission on or before April 1 of each year.~~
- ~~(5) On or before May 1 of each year, the Commission shall calculate a contribution factor to apply to the intra-state gross receipts of each Provider to generate total contributions of no more than seven hundred and fifty thousand dollars (\$750,000) per fiscal year from all Providers.~~
- ~~(6) Pursuant to the provisions of the Act, the Providers are prohibited from line itemizing on its end-users telephone bills any prorata contribution of the Provider's contributions to the TDAP.~~
- ~~(7) Contributions by Providers to the TDAP are not recoverable from the Commission's Universal Service Fund.~~

Authority: T.C.A. §§ 65-2-102 and 65-21-115. **Administrative History:** Original rule filed November 22, 1999; effective February 5, 2000. Amendment filed February 24, 2000; effective May 9, 2000. Repeal and new rule filed December 5, 2006; effective February 18, 2007. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

1220-04-10-.03 COLLECTION OF CONTRIBUTIONS

- ~~(1) Forms designed by the Commission for the remittance of contributions to the Program shall be mailed to each Provider by May 15 of each year. Each Provider shall submit its contribution to the Commission by June 15 of each year.~~
- ~~(2) Providers failing to submit contributions, or submitting late, may be subject to penalties under Tenn. Code Ann. §§ 65-4-116 and 65-4-120.~~
- ~~(3) Contributions when collected shall be deposited in the state treasury in the special fund created for the Program.~~

Authority: T.C.A. §§ 65-2-102 and 65-21-115. **Administrative History:** Original rule filed November 22, 1999; effective February 5, 2000. Repeal and new rule filed December 5, 2006; effective February 18, 2007. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of

~~2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."~~

1220-04-10-.0403 MINIMUM ELIGIBILITY REQUIREMENTS.

- (1) All applicants must be residents of the State of Tennessee.
- (2) A qualified applicant shall have a disability, as verified by a care giver licensed to practice in the state of Tennessee, such that the person cannot use the basic telephone network effectively without the use of an assistive communication device.
- (3) Only one assistive communication device per household will be awarded through the Program unless there are persons in the same household with different adaptive needs. The TDAP Coordinator may then determine the need for more than one assistive communication device.
- (4) Because the demand for assistive communication devices may exceed the supply, the Commission will award the assistive communication devices on a first come basis. Priority, however, will be given to those applicants with the greatest physical and financial and/or social need. Such factors as described below shall be used to evaluate an applicant's physical, financial and social need for the assistive communication devices:
 - (a) The receiving of federal or state public assistance (i.e., Temporary Assistance to Needy Families (TANF), Medicaid, Food Stamps, Supplemental Security Income (SSI), Federal Housing/Section 8 or Low Income Heating, etc.);
 - (b) Applicants whose total gross family income is less than 125 percent of the Federal Poverty Guidelines;
 - (c) The presence of any serious physical, medical, and/or cognitive condition, as verified by a care giver licensed to practice in Tennessee, that may present a life threatening situation (i.e., heart condition, stroke, severe depression, epilepsy, etc.);
 - (d) A qualified applicant living alone;
 - (e) Applicants who are under the age of 18 years who are able to use assistive communication devices for at least emergency purposes and who are frequently left in charge of the household or alone;
 - (f) A living situation where there is more than one person requiring an assistive communication device;
 - (g) Other unique circumstances deserving of special consideration that do not meet the above factors; and
 - (h) Applicants who meet the federal and/or state qualifications for the Lifeline ~~or Link-up~~ Telephone Assistance Programs.

(Rule 1220-04-10-.0403,

- (5) The Commission may request all necessary documentation needed to confirm information provided by applicants. This documentation may include, but not be limited to, medical statements, copies of the applicant's federal income tax returns, evidence of public assistance eligibility and any other documentation needed to ensure the applicant meets the requirements as specified in the Act and this Chapter.
- (6) Applicants must confirm in their application their ability to utilize an assistive communication device effectively. For those applicants that are not qualified in the use of such equipment, the TDAP Coordinator will provide applicants with information about qualified training.
- (7) The Commission shall furnish application forms to be completed by the applicant or his/her authorized representative.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. **Administrative History:** Original rule filed November 22, 1999; effective February 5, 2000. Repeal and new rule filed December 5, 2006; effective February 18, 2007. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

1220-04-10-.0504 PURCHASE AND DISTRIBUTION OF ASSISTIVE DEVICES.

- (1) The Commission will purchase assistive communication devices under a state contract.
- (2) The TDAP Coordinator shall evaluate applications for assistive communication devices and shall award such equipment only to those applicants who meet the requisite requirements listed in this Chapter. Applicants who fail to qualify shall be notified by U.S. Registered Mail of the reasons for denial. Upon such notification, an applicant may request, in writing, directed to the Director of Consumer Services, an informal conference to reconsider the denial. If the proposed solution is not satisfactory to the applicant, the applicant may file a petition for review with the Commission in accordance with Chapter 1220-01-01.
- (3) Assistive communication devices awarded to qualified applicants are available for their exclusive use as long as they meet the Minimum Eligibility Requirements listed in 1220-04-10-.0403.
- (4) The recipient must return the assistive communication devices if any of the following conditions occur:
 - (a) The recipient moves from the state;
 - (b) The recipient loses telephone service permanently;
 - (c) The recipient abuses the assistive communication device;
 - (d) The recipient is found to be using the device for illegal purposes;
 - (e) The recipient no longer requires the device.
- (5) Equipment may be exchanged if a different device becomes necessary because of a change in access needs.

(Rule 1220-04-10-.0504, continued)

- (6) Stolen or damaged equipment may be replaced. The applicant must provide copies of the appropriate documentation, such as fire department and/or police department reports.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. **Administrative History:** Original rule filed November 22, 1999; effective February 5, 2000. Repeal and new rule filed December 5, 2006; effective February 18, 2007. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

1220-04-10-.0605 MAINTENANCE AND REPAIR.

- (1) If the assistive communication device is in need of repair, the recipient shall notify the Commission to determine if loaner equipment is available and whether he/she qualifies for such equipment.
 - (a) Recipients will not qualify for loaner equipment if it is determined that the original device was damaged as the result of negligence or abuse.
 - (b) In order to qualify for loaner equipment, recipients must contact the TDAP Coordinator and provide some evidence that they will pay for the repair cost of their assistive communication devices.
- (2) The Commission shall maintain a list of locations where assistive communication devices can be repaired. The Commission shall make the final determination as to where the assistive communication devices are repaired.
- (3) It is the responsibility of the recipient to return the assistive communication devices to the repair center, as designated by the Commission, for repair. The cost of the repair, and/or coordination with the TDAP Coordinator, shall be the responsibility of the recipient. Special consideration will be given for repair cost by the Commission for recipients who have special financial needs as listed in 1220-04-10-.043(4)(a)-(h).
- (4) It is the responsibility of the recipient to purchase miscellaneous items, such as paper rolls, for the operation of the assistive communication devices.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. **Administrative History:** Original rule filed November 22, 1999; effective February 5, 2000. Repeal and new rule filed December 5, 2006; effective February 18, 2007. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

1220-04-10-.0706 MONTHLY TELEPHONE CHARGES.

- (1) The recipient is responsible for all charges for local and long distance telephone service and any other service charges from the telephone company.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. **Administrative History:** Original rule filed November 22, 1999; effective February 5, 2000. Repeal and new rule filed December 5, 2006; effective February 18, 2007. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility

(Rule 1220-04-10-.07, continued)

Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

1220-04-10-.0807 CONFIDENTIALITY OF INFORMATION AND NONDISCRIMINATORY STATEMENT.

- (1) All information obtained by the Commission from applicants shall be kept confidential and will not be released to any person or entity without the express approval of the applicant unless such information is necessary for the preparation of reports or audits required under state law.
- (2) Services for the TDAP are provided on a nondiscriminatory basis in compliance with Title VI of the Civil Rights Act of 1964, as amended, Section 602 of the Individuals with Disabilities Education Act of 1997, Title II of the Americans with Disabilities Act of 1990 and Title V of the Vocational Rehabilitation Act of 1973 and its amendments.

Authority: T.C.A. §§ 65-2-102 and 65-21-115. **Administrative History:** Original rule filed November 22, 1999; effective February 5, 2000. Repeal and new rule filed December 5, 2006; effective February 18, 2007. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."