



September XX, 2021

Court of Appeals  
Third District of Texas  
P.O. Box 12547  
Austin, Texas 78711-2547

RE: Court of Appeals No: 03-21-00294-CV  
Trial Court Cause No: D-1-GN-21-000311

Style: *Texas Telephone Association and Texas Statewide Telephone Cooperative, Inc. and Their Participating Members, et al. v. Public Utility Commission of Texas; Deann T. Walker, Chairman; Arthur C. D'Andrea, Commissioner; and Shelly Botkin, Commissioner, Each in His or Her Official Capacity at the Public Utility Commission of Texas*

Dear Honorable Justices of the Third Court of Appeals,

We appreciate your consideration of the above-referenced case. This case is very important to us because it involves the applicability and implementation of critical legislation and well-established policy for the State of Texas. We are filing this amicus letter to provide insight and perspective as members of the Legislature.

Texas's longstanding public policy is to ensure that all Texans—including those who are low-income, disabled, or live in rural areas—have access to reliable and affordable telecommunications services. In recent decades, this policy has been implemented primarily through the Texas Universal Service Fund ("TUSF"), which the Legislature has, through statute, charged the Public Utility Commission ("PUC") to administer. The PUC collects assessments to fund TUSF then oversees the disbursement of funds through various TUSF programs. TUSF programs are generally either "social programs" (those that support services for low-income consumers, the hearing impaired, and so forth) or "rural programs" (those that support services in rural and high-cost areas where, due to low population density and/or terrain, phone service would be prohibitively expensive without a support mechanism). TUSF's rural programs directly impact telecommunications services across at least 55% of the state's geography, which in turn impacts connectivity for all citizens across the entire State.

TUSF is important to us because connectivity is incredibly important to our constituents. A reliable telecommunications network enables Texans to access to telemedicine, remote work, distance learning, e-commerce, and connections with friends and family—all concerns that have been amplified during the COVID-19 pandemic.

Texas's small and rural telecommunications providers have served a vital function to this state's connectivity for decades, both non-profit telephone cooperatives as well as small, private-sector providers. These providers use TUSF support to install, maintain, and expand the wireline telephone network in rural areas of the state where large providers may not want to invest in costly improvements for a single subscriber. The fiber or cable networks small providers build using TUSF for voice telephone services can support not only land-line telephone services, but also advanced telecommunications services such as wireless calling, data, and other functions. The resulting ubiquitous statewide telecommunications network benefits all telecommunications users.

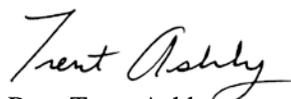
For these reasons, the Legislature has passed various laws directing the PUC to fund TUSF and disburse support to ensure that universal service is achieved. Unquestionably, this includes the TUSF's vital rural programs.

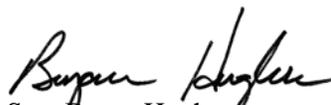
Unfortunately, last year, former PUC Commissioners failed to adequately fund TUSF—even though they acknowledged the mandatory statutory directive to adequately fund and promptly disburse TUSF support—and then chose to direct the full brunt of the resulting funding shortfall to the rural programs alone. As a result, Texas's small and rural telecommunications providers are currently receiving only about 30% of the TUSF support the PUC previously determined they were entitled to receive—a collective shortfall of about \$10 million per month, compounding since January 2021.

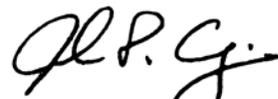
Many of us filed letters with the PUC asking them to take action to address the TUSF crisis. To date, we have not seen any action from the agency or its new commissioners to resolve this matter. As legislators, we are deeply concerned that a state agency knowingly chose not to follow mandatory statutory directives, especially given our understanding that the agency has since argued that the courts should not review their actions. As Texans, we are doubly concerned that the agency's failures have caused the significant and ongoing under-funding of the statewide telecommunications network that benefits us all.

Given all of the above, we truly appreciate the Third Court of Appeals' thoughtful consideration of this lawsuit. We believe in the policies set forth in Texas statutes, and we look forward to the judiciary's review of the PUC's implementation of those policies. We trust that you will make the appropriate decisions to ensure that the PUC follows the law so that all Texans will maintain the connectivity they so desperately need.

Respectfully,

  
Rep. Trent Ashby

  
Sen. Bryan Hughes

  
Rep. John Cyrier

  
Sen. Charles Perry



Rep. Ken King



Sen. Drew Springer



Rep. Ernest Bailes



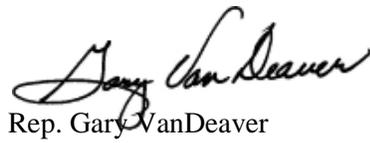
Sen. Eddie Lucio Jr.



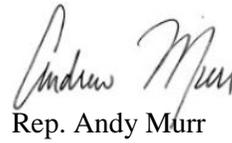
Rep. Glenn Rogers



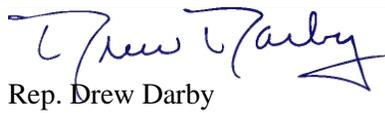
Sen. Judith Zaffirini



Rep. Gary VanDeaver



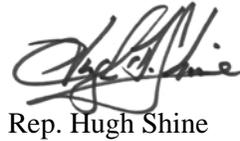
Rep. Andy Murr



Rep. Drew Darby



Rep. Eddie Lucio III



Rep. Hugh Shine



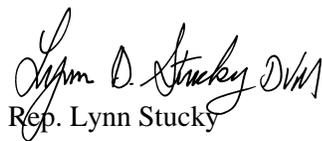
Rep. Reggie Smith



Rep. Ryan Guillen



Rep. Cody Harris



Rep. Lynn Stucky



Rep. Four Price



Rep. Cole Hefner



Rep. Chris Paddie



Rep. Tracy King



Rep. Jay Dean



Rep. DeWayne Burns



Rep. Kyle Kacal

  
Rep. Tom Craddick

  
Rep. Ben Leman

  
Rep. Stan Lambert