HOUSE RESEARCH ORGANIZATION bill digest | 5/7/2001

HB 2388
Chisum, Hardcastle, B. Turner, West
(CSHB 2388 by Counts)

SUBJECT: Providing telephone service to high-cost rural areas

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 10 ayes — Wolens, S. Turner, Bailey, Brimer, Counts, Danburg, Hunter, Longoria, McClendon, Merritt

0 nays

5 absent — Craddick, Hilbert, D. Jones, Marchant, McCall

WITNESSES: For — Janee Briesemeister, Consumers Union; *Registered but did not testify:* Thomas Ratliff, Western Wireless

Against — None

On — Brook Brown, Texas Telephone Association; Bruce Cohen, Verizon; Dave Lopez, Southwestern Bell; *Registered but did not testify:* José Camacho, Valor Telecom; Susan Durso and Nara Srininasa, Public Utility Commission of Texas

BACKGROUND: The Legislature established the Universal Service Fund in 1987 to ensure provision of basic telephone service for all Texans, including those in high-cost rural areas (Utilities Code, sec. 56.021). Money from the fund is distributed to telecommunications providers to offset the high costs of providing service in rural areas. Utilities Code, chapter 54 requires that a provider hold a certificate to provide telephone service to a certain area. Funds from the Universal Service Fund are distributed only for certificated areas of providers. More than 7,000 square miles of Texas are uncertificated and receive no money from the Universal Service Fund to provide basic telephone service.

DIGEST: CSHB 2388 would allow the Public Utility Commission (PUC) to designate a telecommunications provider to provide voice telephone service to permanent residential or business premises outside the provider's certificated area. The designated provider would receive Universal Service Fund distributions to help provide the service.

Owners or residents of permanent residential or business premises outside a certificated area could petition the PUC to designate a provider to provide voice telephone service to the area. The petition would have to:

- state the location of the premises;
- demonstrate that the premises were sufficiently close together to constitute a community of interest;
- be signed by at least five owners or residents not in the same household who wanted service to the premises and who committed to pay an "aid to construction" charge;
- nominate five or fewer providers serving adjacent areas; and
- include required proof of residence or ownership documentation.

Upon receipt of a petition, the PUC would have to hold a hearing to choose a provider to serve the premises. The PUC could deny a petition if it found that the services could not be extended to the premises at a reasonable cost. To deny a petition, the PUC would have to consider:

- the cost of deploying service to the premises and the effect of reimbursement on the cost;
- the number of access lines requested;
- the size of the territory in which the premises were included;
- the proximity of existing facilities and the existence of a preferred designated provider; and
- any technical barriers to providing service.

In granting a petition, the PUC would have to approve the facilities to be deployed, the cost of deployment, and recovery for recurring costs. The PUC would have to give preference to the adjacent provider with the lowest-cost technology. In designating a provider, the PUC would have to allow the provider to recover costs, including deployment and recurring costs, from the Universal Service Fund. Unless a provider agreed voluntarily to provide service to the premises, the PUC could not designate a provider that was ineligible to receive Universal Service Fund money.

The PUC's final order would have to ensure that the designated provider would recover all deployment costs — such as capital costs for facilities installation or upgrade — through the Universal Service Fund within three years, if the original cost was $1 million or less; within five years, if the cost was between $1 and $2 million; and within seven years, if the cost was more than $2 million. The designated provider would recover recurring costs, including maintenance and operation costs, from a monthly rate charge to the customer and a monthly per-line payment from the Universal Service Fund.

The PUC could not require any services to be provided to the premises if the total amount of required reimbursements for providing service to all petitioning premises in a fiscal year exceeded 0.02 percent of the total annual gross revenue of the Universal Service Fund.

The PUC would have to establish an “aid to construction” charge that could not exceed $3,000 for each petitioner. A designated provider would not have to begin construction until each petitioner agreed to pay the charge and agreed to subscribe to basic local service from the designated provider for a certain period of time.

Residents or owners of nearby premises who did not sign the petition for service would not be eligible to receive service for five years unless they filed a new petition and agreed to pay an aid to construction charge. The preferred provider for a subsequent petition would be the designated provider for the original petition. A subsequent designated provider would be reimbursed in the same manner as for the original petition.

The designation of a provider to serve permanent residential or business premises would not amend the boundaries of a provider’s certificate to provide local exchange services, nor would it impose carrier-of-last-resort responsibilities on the provider.

The bill would take effect September 1, 2001.

NOTES: The committee substitute changed the filed version by eliminating provisions that would have required the PUC to implement a mechanism to determine a reasonable rate of recovery for a designated provider, and by establishing time periods in which a designated provider would have to be reimbursed for deployment of service costs.