

SUBJECT: Requirements of certain deregulated telecommunication companies

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 9 ayes — Cook, Giddings, Farrar, Frullo, Geren, Harless, Huberty,
Smithee, Sylvester Turner

0 nays

4 absent — Craddick, Hilderbran, Menéndez, Oliveira

SENATE VOTE: On final passage, March 13, 2013 — 31-0

WITNESSES: For — (*Registered, but did not testify*: Robert Digneo, AT&T; Richard Lawson, Verizon; Annie Mahoney, Texas Conservative Coalition; Lucas Meyers, Texas Cable Association; Stephen Minick, Texas Association of Business; Bill Peacock, Texas Public Policy Foundation)

Against — None

On — (*Registered, but did not testify*: Sheri Hicks, TEXALTEL; Pam Whittington, Public Utility Commission)

BACKGROUND: The state's two largest telecommunications companies — AT&T and Verizon — have agreed to no longer draw high cost Universal Service Fund payments after January 1, 2017. Other companies, such as competitive local exchange carriers (CLECs) are operating in competition with established carriers. Some companies, called transitioning companies, are regulated in some telephone exchanges and not in others.

An incumbent local exchange carrier (ILEC), sometimes called a “legacy carrier,” is a telecommunication provider that historically had been regulated in the Texas market. Each ILEC holds a certificate of convenience and necessity (CCN), which requires it to provide service to all areas of an exchange.

The term “tariff” as used in telecommunications regulation, means filed, legally binding documents approved by the PUC that define rates, terms

and conditions for regulated companies. Tariffs guide regulated communications, while contracts between consumers and providers guide the rates and terms in a deregulated market.

DIGEST:

SB 259 would provide guidance to a company in the Texas telecommunications market after the company had become deregulated.

Deregulated companies. SB 259 would amend Utilities Code, sec. 65.102 to place the requirements for deregulated companies (wireline incumbents whose entire market areas are deemed competitive by the PUC) under one section in the code.

The consolidated section would include consumer safeguards, wholesale rules, video franchise rules, and administrative oversight.

Consumer safeguards consolidated under sec. 65.102 would include:

- 9-1-1 requirements;
- consumer protection rules, including those that regulate billing, slamming/cramming, and use of credit history/credit scores;
- lifeline phone service for low-income customers;
- Universal Service Fund access;
- requirements that prevent pricing from being “anticompetitive, unreasonably preferential, prejudicial, discriminatory, or predatory”;
- wireless no-publish requirements;
- private property owners’ rights and responsibilities; and
- Automatic Dial Announcing Device (ADAD) notifications and requirements.

Wholesale rules consolidated under sec. 65.102 would include wholesale regulations and resale provisions.

Video franchise rules consolidated under sec. 65.102 would include state-issued cable and video franchise rules and broadcaster safeguard rules.

Administrative provisions consolidated under sec. 65.102 would include:

- enforcement and penalties;
- judicial review;

- rules for transfer of certificates, contract approval, and prohibitions against interfering with another telecom utility;
- administrative fees;
- explicit certification authority; and
- explicit complaint authority.

Tariffing. SB 259 would prohibit the PUC from requiring a CLEC to obtain advance approval for its rates and services.

The PUC would be prohibited from requiring a deregulated company or transitioning company to obtain approval for a filing with the commission or to post on the company's website provisions that added, modified, withdrew, or grandfathered:

- nonbasic retail service or the service's rates, terms, or conditions;
or
- in a deregulated market, a basic network service or the service's terms, rates, and conditions.

Notice of changes to rates and tariffs between ILECs and CLECs. An ILEC would be required to continue to provide resellers of retail services the notice of rate changes or withdrawal of services.

Treatment of CLECs if an ILEC was deregulated. SB 259 would prohibit a nondominant telecommunications utility (CLEC) from having a regulatory burden exceeding that of:

- the current ILEC provider;
- a large, deregulated entity, such as AT&T and Verizon; or
- a deregulated ILEC of any size that served in the same area as the CLEC.

Conforming changes and effective date. The bill would make conforming and formatting changes to various sections of the Utilities Code to reflect the effect of changes made by SB 529.

The bill would take effect September 1, 2013.

SUPPORTERS
SAY:

SB 259 would provide clarity regarding the PUC's authority with respect to nondominant carriers (CLECs), deregulated companies, and companies

transitioning from being regulated to becoming deregulated. It also would provide assurances as to how these entities would be treated by the PUC. It would maintain important consumer protections.

The bill would reduce the PUC's authority over such carriers and provide them additional flexibility with respect to pricing of residential services. During the transition from regulated utilities to deregulated utilities, the state's regulatory framework underwent similar changes designed to provide clarity in guiding utilities through that process.

SB 259 is an agreed-upon bill, resulting from negotiations with various-sized telephone companies, cable-operators, consumer groups and state agencies. It has been thoroughly reviewed and vetted by attorneys at state agencies and private companies.

The bill would keep intact consumer safeguards and would not affect the role of the PUC in connection with wholesale agreements between phone companies. It would not change the law with regard to video and cable services offered by telecommunication and cable providers, and would provide the PUC with all necessary continuing administrative oversight.

The list of requirements for deregulated companies are reasonable and would include removing uniform pricing for a "deregulated company," removing the perfunctory tariff/price list change approval process, and adding a wholesale noticing provision. In addition, a CLEC serving the same market as a deregulated ILEC would receive the same regulatory treatment.

OPPONENTS
SAY:

No apparent opposition.