

BILL ANALYSIS

Senate Research Center

C.S.S.B. 583
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1987, the 70th Legislature established the Texas Universal Service Fund (TUSF), the Texas equivalent of the Federal Universal Service Fund. The concept of universal service is that all citizens should have access to basic telecommunication services. Originally, long-distance rates subsidized rural local rates, which generally have a higher cost to provide services. Once telecommunication markets became open to competition this method became unsustainable and inefficient and subsidies are now made explicitly through a surcharge. TUSF exists outside the treasury and is authorized by Chapter 56 (Telecommunications Assistance and Universal Service Fund), Utilities Code. Overall support is provided on a per-line, competitively neutral basis, meaning that if the customer chooses another telecommunications provider, that line's support follows the customer to the new company.

The federal government recently reduced universal service funding and shifted its focus to broadband. Furthermore, while universal service funding is meant to ensure that rates in rural areas are not significantly higher than in urban areas, Texas has seen urban area rates that are higher than rural rates.

In order for TUSF to best serve its intended purpose, C.S.S.B. 583 establishes a needs test for TUSF so that after December 1, 2016, no company or cooperative with more than 31,000 access lines is eligible for support in an exchange that has two voice providers. This is the same competitor created by S.B. 980, 82nd Legislature, Regular Session, 2011, for deregulation. C.S.S.B. 583 also provides a safety net for companies and cooperatives to petition the Public Utility Commission of Texas for support in areas with no unsubsidized competitor that have financial need. The bill states that companies with 31,000 access lines or fewer that are not electing companies under Chapter 58 or 59 may continue to get the support they need. Finally, C.S.S.B. 583 eliminates TUSF support for business lines after December 31, 2016.

C.S.S.B. 583 amends current law relating to eligibility for support from the universal service fund.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Utility Commission of Texas in SECTION 3 (Section 56.025, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 56.023, Utilities Code, by amending Subsection (b) and adding Subsections (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p), as follows:

(b) Requires that the eligibility criteria require that a telecommunications provider, in compliance with the Public Utility Commission of Texas's (PUC) quality of service requirements:

(1) offer service to each consumer within an exchange in the company's certificated area for which the incumbent local exchange company receives support under a plan established under Section 56.021(1) (relating to requiring PUC to adopt and enforce rules requiring local exchange companies to establish a

universal service fund to assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas under certain plans) and to any permanent residential or business premises to which the company is designated to provide services under Subchapter F (Service to Uncertificated Area); and

(2) render continuous and adequate service within an exchange in the company's certificated area for which the incumbent local exchange company receives support under a plan established under Section 56.021(1) and to any permanent residential or business premises to which the company is designated to provide services under Subchapter F.

(f) Defines "incumbent local exchange company" for purposes of this subsection. Provides that after December 31, 2016, an incumbent local exchange company or cooperative that served greater than 31,000 access lines in this state on September 1, 2013, or a company or cooperative that is a successor to such a company or cooperative and that serves any part of the same market as its predecessor is not eligible for support under a plan established under Section 56.021(1) for service provided in an exchange that has operating in any part of the exchange at least two competitors to the company or cooperative that:

(1) are unaffiliated with the company or cooperative; and

(2) provide voice communications service without regard to the delivery technology, including through Internet Protocol or a successor protocol, satellite, or a technology used by a wireless provider or a commercial mobile service provider, as that term is defined by Section 64.201 (Definition).

(g) Requires PUC to initiate contested case proceedings as necessary to determine the eligibility of a company or cooperative to receive continued support under the plan for service in the exchange after December 31, 2016, for each exchange for which service by an incumbent local exchange company or cooperative that may be subject to Subsection (f) is receiving support under a plan established under Section 56.021(1). Requires that the proceedings be completed before September 1, 2015.

(h) Prohibits a plan established under Section 56.021(1) from providing support to any other telecommunications providers for services in that exchange if an incumbent local exchange company or cooperative is ineligible for support under a plan established under Section 56.021(1) for services in an exchange.

(i) Provides that Subsection (g) does not authorize PUC to initiate a contested case hearing concerning a local exchange company that has elected to participate in a total support reduction plan under 16 T.A.C. Section 26.403 that requires the company to forego funding under a plan established under Section 56.021(1) after January 1, 2017. Provides that this section does not affect any obligation of a local exchange company subject to such a total support reduction plan.

(j) Authorizes the company, notwithstanding Subsections (f) and (g), if an incumbent local exchange company is determined under those subsections to be ineligible to receive support under a plan established under Section 56.021(1) in an exchange, after September 1, 2015, to petition PUC to receive support for service in an exchange after January 1, 2017, if:

(1) the exchange does not have an unsubsidized wire line competitor to the company that offers voice communications service in that exchange; and

(2) the incumbent local exchange company demonstrates it has a financial need for support in the exchange.

(k) Requires PUC to set the amount of support in the same proceeding if it determines that an incumbent local exchange company has demonstrated financial need for support in an exchange under Subsection (j).

(l) Prohibits an incumbent local exchange company from receiving an amount of support in an exchange under a plan established under Section 56.021(1) and authorized under Subsections (j) and (k) that exceeds the total amount of such support the company is eligible to receive for the exchange on December 31, 2016.

(m) Authorizes a cooperative, notwithstanding Subsections (f) and (g), to petition PUC to receive support for service in the exchange if the cooperative that is a cooperative on January 1, 2013, is determined under those subsections to be ineligible to receive support under a plan established under Section 56.021(1) in an exchange.

(n) Prohibits a cooperative from receiving an amount of support under a plan established under Section 56.021(1) as authorized under Subsection (m) that exceeds the total amount of such support the cooperative was receiving on September 1, 2013, attributable to access lines used to provide stand-alone residential local exchange voice service, as defined by Section 65.002 (Definitions).

(o) Provides that Subsections (f) and (g) do not apply to an incumbent local exchange company that elects, no later than March 1, 2014, to eliminate not later than September 1, 2018, the support it receives under a plan established under Section 56.021(1).

(p) Provides that nothing in this chapter relieves any party of an obligation entered into in PUC's Docket No. 40521.

SECTION 2. Amends Section 56.024, Utilities Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Provides that a report or information PUC requires a telecommunications provider to provide under Subsection (a) (relating to authorizing PUC to require a telecommunications provider to provide a report or information necessary to assess contributions and disbursements to the universal service fund) is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

(c) Requires a telecommunications provider to file with PUC the provider's annual earnings report if the provider:

(1) is not a local exchange company subject to a total support reduction plan under 16 T.A.C. Section 26.403 or that has made an election under Section 56.023(o);

(2) serves greater than 31,000 access lines; and

(3) receives support under a plan established under Section 56.021(1).

(d) Provides that a report filed under Subsection (c) is public information.

SECTION 3. Amends Section 56.025, Utilities Code, by amending Subsection (a) and adding Subsection (g), as follows:

(a) Provides that in addition to the authority provided by Section 56.021:

(1) for each local exchange company that serves fewer than 31,000 access lines and each cooperative, PUC is authorized to adopt a mechanism necessary to maintain reasonable rates for local exchange telephone service; and

(2) for each local exchange company and each cooperative that serves 31,000 or fewer access lines and that on June 1, 2013, is not an electing company under

Chapter 58 (Incentive Regulation) or 59 (Infrastructure Plan), PUC is required to adopt rules to expand the universal service fund in the circumstances prescribed by this section.

Makes nonsubstantive changes.

(g) Prohibits PUC, notwithstanding any other provision of this section, after December 31, 2013, from distributing support granted under this section, including any support granted before that date, to a local exchange company or cooperative that serves greater than 31,000 access lines or that is an electing company under Chapter 58 or 59 on June 1, 2013.

SECTION 4. Amends Section 56.026, Utilities Code, as follows:

Sec. 56.026. New heading: **PROMPT AND EFFICIENT DISBURSEMENTS.** Deletes existing Subsection (a) providing that a revenue requirement showing is not required for a disbursement from the universal service fund under this subchapter. Deletes existing Subsection (b) designation and makes no further change to this section.

SECTION 5. Amends Subchapter B, Chapter 56, Utilities Code, by adding Section 56.029, as follows:

Sec. 56.029. **INELIGIBILITY FOR BUSINESS LINE SUPPORT.** Defines "incumbent local exchange company" for purposes of this section. Provides that notwithstanding any other provision of this subchapter, an incumbent local exchange company or cooperative that is not an incumbent local exchange company subject to a total support reduction plan under 16 T.A.C. Section 26.403 and that serves greater than 31,000 access lines in this state is not eligible to receive support from the universal service fund for the business lines served by the company or cooperative after December 31, 2016. Prohibits a plan established under Section 56.021(1) from providing support to any other telecommunications provider for business lines served by the provider if an incumbent local exchange company or cooperative is ineligible under this section for support from the universal service fund for business lines served by the company or cooperative.

SECTION 6. Amends Sections 56.032(b), (c), (d), (e), (f), and (h), Utilities Code, as added by Chapter 535 (H.B. 2603), Acts of the 82nd Legislature, Regular Session, 2011, as follows:

(b) Authorizes PUC, except as provided by Subsections (d) and (e), rather than Subsections (c), (d), (e), and (f), to revise the monthly support amounts to be made available from the Small and Rural Incumbent Local Exchange Company Universal Service Plan by any mechanism, including support reductions resulting from rate rebalancing approved by PUC, rather than by revising the monthly per line support amounts, after notice and an opportunity for hearing. Requires PUC to consider the adequacy of basic rates to support universal service in determining appropriate monthly support amounts, rather than in determining appropriate monthly per line support amounts.

(c) Entitles a company that receives frozen monthly support amounts as prescribed by a final order issued by PUC in PUC's Docket No. 39643 to continue to receive that monthly support until the support is revised under Subsection (b). Deletes existing text requiring PUC to disburse funds in a certain way on the written request of a small or rural incumbent local exchange company that receives monthly per line support amounts and authorizing a company to submit only one request under this subsection and requiring the request submission on or before December 31, 2011.

(d) Requires PUC to annually set the company's monthly support amounts for the following 12 months by dividing by 12 the annualized support amount calculated under this subsection for each small or rural incumbent local exchange company, rather than on the written request of each small or rural incumbent local exchange company, that is not

receiving frozen support amounts as described by Subsection (c) and is not an electing company under Chapter 58 or 59. Requires PUC to calculate the annualized amount:

(1) for the initial 12-month period for which a company makes an election under this subsection, by determining the annualized support amount received by the company as of January 1, 2013; and

(2) for subsequent 12-month periods, by adjusting the most recent annualized support amount calculated by PUC by a factor equal to the percentage change in the consumer price index for the most recent 12-month period.

Deletes existing text requiring PUC to calculate the annualized amount for the initial 12-month period for which a company makes an election under this subsection, by determining the annualized support amount calculated for the requestor in the final order issued by PUC in Docket No. 18516 and adjusting that support amount at the beginning of each calendar year by a factor equal to the most recent consumer price index published at that time, beginning with the 1999 calendar year and ending in the year the company makes an election under this subsection; and through certain methods for the 12-month period following the initial period for which a company made an election under this subsection.

(e) Authorizes PUC, on its own motion or on the written request of the company, rather than if a company elects to receive monthly support amounts under Subsection (d), to initiate a proceeding to recalculate the most recent annualized support amount to be used as the basis for adjustment for a subsequent 12-month period under Subsection (d)(2).

(f) Deletes existing text requiring PUC to administratively review requests filed under Subsections (c) and (d). Requires PUC, except for good cause, to establish monthly support amounts under Subsection (d) not later than the 60th day after the date PUC determines the company is eligible, rather than requiring PUC to approve the request not later than the 60th day after the date PUC determines the company is eligible and has met all the procedural requirements under this subchapter.

(h) Provides that Subsections (a), (c), (d), (e), and (f) and any monthly support amount approved under those subsections expire September 1, 2017, rather than providing that this section and any monthly support amount approved under this section expire on September 1, 2013.

SECTION 7. Repealer: Section 3 (relating to amending Section 56.031 (Adjustments), Utilities Code, effective September 1, 2013), Chapter 535 (H.B. 2603), Acts of the 82nd Legislature, Regular Session, 2011, Utilities Code.

SECTION 8. Effective date: June 1, 2013, or the 91st day after the last day of the legislative session.