

SUBJECT: Requirements for universal service fund disbursements to certain utilities

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 9 ayes — Cook, Giddings, Craddick, Geren, Guillen, K. King, Kuempel,
Meyer, Oliveira

0 nays

4 absent — Farrar, Paddie, E. Rodriguez, Smithee

SENATE VOTE: On final passage, April 20 — 28-3 (Burton, Huffines, V. Taylor)

WITNESSES: *On House companion bill, HB 2659:*
For — (*Registered, but did not testify:* Kelly Curbow, AT&T; Shayne Woodard, Big Bend Telephone Company, Brazoria Telephone; Don McBeath, Texas Organization of Rural and Community Hospitals; Daniel Gibson and Weldon Gray, Texas Statewide Telephone Cooperative, Inc.; Rick Hardcastle, Santa Rosa Telephone; Don Richards, TSTSI; John Hubbard, Lyn Kamerman and Ian Randolph, Texas Telephone Association)

Against — Bill Peacock, Texas Public Policy Foundation (*Registered, but did not testify:* Adam Cahn, Cahnman's Musings)

On — Thomas Ratliff, Dialtone Services; Pam Whittington, Public Utility Commission of Texas; (*Registered, but did not testify:* Charles Land, TEXALTEL)

BACKGROUND: In 1987, the 70th Legislature established the Texas Universal Service Fund to help local telephone companies in high-cost rural areas provide telephone service at reasonable rates. One of the two plans used to assist local phone companies is the Small and Rural Incumbent Local Exchange Company Universal Service Plan. Certain provisions of the Small and Rural Incumbent Local Exchange Company Service Plan are set to expire September 1, 2017.

DIGEST: SB 586 would require the Public Utility Commission (PUC) to determine the amount of monetary support given to specific phone companies serving rural areas and adjust the amount of monetary support under certain conditions. The bill also would require PUC to review specific provisions of the Universal Service Plan and report findings to the Legislature in 2022.

Determining and disbursing support. The bill would require PUC, upon request by certain small providers, to determine and disburse support to a small provider in fixed monthly amounts based on an annualized support amount PUC determined to be sufficient to permit the small provider a reasonable return. A small provider would continue to receive the same level of support received on the date of the request until PUC made a determination or an adjustment. The bill would define a "small provider" as an incumbent local telephone company or cooperative that served 31,000 or fewer access lines in the state, or the successor to that company or cooperative.

Determining support amounts. Before January 1, 2018, PUC would be required to initiate rulemaking to develop and implement a mechanism to determine the annualized support amount to be disbursed to small providers. The mechanism would have to meet several requirements provided by the bill, including that small providers file an annual report and that PUC provide a procedure to determine whether expenses reported by a small provider were reasonable and necessary. The annual report would be confidential and not subject to state public information requirements.

The bill would require a proceeding to determine whether a small provider's rate of return was reasonable and if monetary support levels should be adjusted.

A small provider whose return was not considered reasonable could file an application that was eligible for administrative review or informal disposition to adjust support or rates to a level that brought the small

provider's rate of return into a reasonable range. A small provider's support level could not be set at more than 140 percent of the annualized support amount the provider received in the previous year before the date of adjustment.

A rate adjustment could not adversely affect universal service. Except for good cause, a small provider that filed an application for adjustment could not file another application for adjustment within three years after the date the most recent application was initiated.

PUC could initiate a proceeding to review the small provider's support level and regulated revenues and, after notice and an opportunity for a hearing, adjust the provider's level of support or rates. Except for good cause, the PUC could not initiate a subsequent adjustment proceeding within three years after the date the most recent application was initiated.

A small provider eligible to have support determined and distributed would be required to receive the same level of support it was receiving on August 31, 2017, until the earlier of:

- the date on which PUC made a determination or adjustment; or
- the 61st day after the date PUC adopted the mechanism to determine annualized support amounts.

The bill would not limit PUC's authority to initiate a review of a small provider under another provision of the Universal Service Fund Program. In a proceeding for a small provider, PUC could recalculate the annualized support amount to be disbursed to the small provider and recalculate the annualized support amount to be used as the basis for adjustment in any subsequent proceeding.

Program review. On or after January 1, 2022, and before July 1, 2022, PUC would be required to review and evaluate the provisions of this bill and whether they should be continued. After conducting a review and before September 1, 2022, PUC would be required to submit a report to the Legislature with certain information required by the bill, including the

efficiency and frequency of adjustment proceedings, and the effects of changes in technology on regulated revenue and support needs. The provisions of this bill and any monthly amounts approved by PUC would expire on September 1, 2023.

Effective date. The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

SB 586 would continue a vital program needed to provide phone service to rural areas where it would not otherwise be feasible for phone companies to do business. Without the bill, many rural residents could lose their phone service or see rates increase significantly, which would be especially problematic for residents without internet or cell service during an emergency.

The bill would require a review of the program in 2022, including a review of the effect of technology on regulated revenue and support needs. There currently is a demonstrated need for the program, but if technology advanced to the point where this program was no longer needed, it would expire in 2023.

**OPPONENTS
SAY:**

SB 586 would increase government subsidies to certain telephone companies, even though the cost of providing phone services has gone down in the past several years. Recent technological improvements have provided more access to phone services while reducing prices, making certain provisions within the Universal Service Fund unnecessary. These provisions of the fund should be allowed to expire instead of being extended and expanded.

NOTES:

A companion bill, HB 2659 by Geren, was left pending following a public hearing in the House State Affairs Committee on April 12.