

BILL ANALYSIS

Senate Research Center
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S.B. 586
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current statutory arrangement for the small and rural telephone companies will expire on September 1, 2017. Without the passage of new legislation, the 45 small and rural telephone companies impacted will immediately lose \$23 million in annual support from the Texas Universal Service Fund (TUSF).

If this amount of support is lost, many stakeholders believe the development and maintenance of the basic telecommunications infrastructure across rural Texas will be negatively impacted. Additionally, there is worry the 45 small companies will need to file traditional regulatory "rate cases" at the Texas Public Utility Commission (PUC) if TUSF support is reduced. This could trigger full rate cases that are expected to average, or exceed, \$500,000 per company and take up to a year or more to complete. These costs and time consumption will burden the resources of the companies and the PUC.

S.B. 586 proposes a long-term, regulatory-efficient, and "needs-based" support program to replace the current expiring plan. Under the bill, each company will submit timely financial reporting mechanisms to the PUC and if necessary as required by law or by PUC initiation, will provide an open and accountable review of their regulated financial affairs for "re-setting" of the company's support from the TUSF.

As public utilities, the small companies will remain subject, at all times, to the full rate-and-revenue jurisdiction of the PUC.

S.B. 586 addresses only how support for small and rural local exchange companies are examined. This bill does not affect the support of companies with over 31,000 access lines.

For: Texas Statewide Telephone Cooperative, Inc.

Oppose: AT&T, Verizon, Sprint, Texas Cable Association

As proposed, S.B. 586 amends current law relating to the distribution of universal service funds to certain small and rural incumbent local exchange companies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Public Utility Commission in SECTION 1 (Section 56.032, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 56.032, Utilities Code, as effective September 1, 2017, as follows:

Sec. 56.032. ADJUSTMENTS: SMALL AND RURAL INCUMBENT LOCAL EXCHANGE COMPANY UNIVERSAL SERVICE PLAN. (a) Defines "rate of return" and "small provider."

(b) Authorizes the Public Utility Commission of Texas (PUC) to revise certain monthly support amounts after notice and an opportunity for hearing, except as

provided by Subsections (d) through (i), rather than except as provided by Subsections (d) and (e).

(c) Requires PUC, on the written request of a small provider that is not an electing company under Chapter 58 (Incentive Regulation) or 59 (Infrastructure Plan), to determine and disburse support to the small provider in fixed monthly amounts based on an annualized support amount PUC determines to be sufficient, when combined with regulated revenues, to permit the small provider the opportunity to earn a reasonable return in accordance with Section 53.051 (Establishing Overall Revenues). Requires a small provider that makes a request under this section to continue to receive the same level of support it was receiving on the date of the written request until PUC makes a determination or adjustment through the mechanism described by Subsection (d).

(d) Requires PUC to, not later than January 1, 2018, initiate rulemaking proceedings to develop and implement a mechanism to determine the annualized support amount to be disbursed under this section. Requires the mechanism to:

(1) require the annual filing of a report by each small provider that submits a request under Subsection (c) for certain purposes relating to support levels;

(2) provide requirements for the annual filing, which are authorized to include annual earnings reports filed with PUC under 16 T.A.C. Section 26.73 and any underlying data that PUC, during the rulemaking process, determines to be necessary for the purposes of Subdivision (1); and

(3) provide requirements and procedures for adjustment proceedings that are consistent with Subsections (g) and (h).

(e) Authorizes PUC, in a proceeding to adjust support levels using the mechanism described by Subsection (d), to consider the small provider's data for a period not to exceed three fiscal years before the date the proceeding is initiated.

(f) Provides that for the purposes of the mechanism described by Subsection (d), a return that is within three percentage points of the rate of return is deemed reasonable, and prohibits a support adjustment from being made for a small provider whose return falls in that range for the previous fiscal year.

(g) Authorizes a small provider whose return is more than three percentage points below the rate of return to file an application that is eligible for administrative review or informal disposition to adjust support to a level that would bring the small provider's return into the range deemed reasonable under Subsection (f). Prohibits a small provider that files an application for adjustment under this subsection, except for good cause, from filing a subsequent application for adjustment before the third anniversary of the date on which the small provider's most recent application for adjustment is initiated.

(h) Provides that there is no presumption that the return is unreasonable for a small provider whose return is more than three percentage points above the rate of return. Authorizes PUC, on its own motion, to initiate a proceeding to review the small provider's support level and after notice and an opportunity for a hearing, reduce the provider's level of support, if appropriate. Prohibits PUC, except for good cause, from initiating a subsequent adjustment proceeding for a small provider under this subsection before the third anniversary of the date on which the small provider's most recent adjustment proceeding is initiated.

(i) Requires a small provider that is eligible to have support determined and distributed under this section to continue to receive the same level of support it was receiving on August 31, 2017, until the earlier of certain dates.

(j) Provides that a report or information PUC requires a small provider to provide under this section is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code. Provides that in any proceeding related to Subsection (d), a third party's access to confidential information is subject to an appropriate protective order.

(k) Redesignates existing Subsection (g) as Subsection (k). Makes no further changes to this subsection.

Deletes existing Subsection (h) relating to the expiration of certain subsections on September 1, 2017.

SECTION 2. Effective date: September 1, 2017.