

1-1 By: Fraser S.B. No. 21
1-2 (In the Senate - Filed June 21, 2005; June 21, 2005, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 June 30, 2005, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; June 30, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to furthering competition in the communications industry.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 33.001, Utilities Code, is amended to
1-11 read as follows:

1-12 Sec. 33.001. MUNICIPAL JURISDICTION. (a) To provide fair,
1-13 just, and reasonable rates and adequate and efficient services, the
1-14 governing body of a municipality has exclusive original
1-15 jurisdiction over the rates, operations, and services of an
1-16 electric utility in areas in the municipality, subject to the
1-17 limitations imposed by this title.

1-18 (b) Notwithstanding Subsection (a), the governing body of a
1-19 municipality shall not have jurisdiction over the BPL system, BPL
1-20 services, telecommunications using BPL services, or the rates,
1-21 operations, or services of the electric utility or transmission and
1-22 distribution utility to the extent that such rates, operations, or
1-23 services are related, wholly or partly, to the construction,
1-24 maintenance, or operation of a BPL system used to provide BPL
1-25 services to affiliated or unaffiliated entities.

1-26 SECTION 2. Subtitle B, Title 2, Utilities Code, is amended
1-27 by adding Chapter 43 to read as follows:

1-28 CHAPTER 43. USE OF ELECTRIC DELIVERY SYSTEM FOR ACCESS TO BROADBAND
1-29 AND OTHER ENHANCED SERVICES, INCLUDING COMMUNICATIONS

1-30 SUBCHAPTER A. GENERAL PROVISIONS

1-31 Sec. 43.001. LEGISLATIVE FINDINGS. (a) The legislature
1-32 finds that broadband over power lines, also known as BPL, is an
1-33 emerging technology platform that offers a means of providing
1-34 broadband services to reach homes and businesses. BPL services can
1-35 also be used to enhance existing electric delivery systems, which
1-36 can result in improved service and reliability for electric
1-37 customers.

1-38 (b) The legislature finds that access to broadband services
1-39 is important to this state. BPL deployment in Texas has the
1-40 potential to extend broadband service to customers where broadband
1-41 access is currently not available and may provide an additional
1-42 option for existing broadband consumers in Texas, resulting in a
1-43 more competitive market for broadband services. The legislature
1-44 further finds that BPL development in Texas is fully dependent upon
1-45 the participation of electric utilities in this state that own and
1-46 operate power lines and related facilities that are necessary for
1-47 the construction of BPL systems and the provision of BPL services.

1-48 (c) Consistent with the goal of increasing options for
1-49 telecommunications in this state, the legislature finds that it is
1-50 in the public interest to encourage the deployment of BPL by
1-51 permitting affiliates of electric utilities, or permitting
1-52 unaffiliated entities, to own or operate all or a portion of such
1-53 BPL systems. The purpose of this chapter is to provide the
1-54 appropriate framework to support the deployment of BPL.

1-55 (d) The legislature finds that an electric utility may
1-56 choose to implement BPL under the procedures set forth in this
1-57 chapter, but is not required to do so. The electric utility shall
1-58 have the right to decide, in its sole discretion, whether to
1-59 implement BPL and may not be penalized for deciding to implement or
1-60 not to implement BPL.

1-61 Sec. 43.002. APPLICABILITY. (a) This chapter applies to
1-62 an electric utility whether or not the electric utility is offering
1-63 customer choice under Chapter 39.

1-64 (b) If there is a conflict between the specific provisions

2-1 of this chapter and any other provisions of this title, the
 2-2 provisions of this chapter control.

2-3 (c) No provision of this title shall impose an obligation on
 2-4 an electric utility to implement BPL, to provide broadband
 2-5 services, or to allow others to install BPL facilities or use the
 2-6 electric utility's facilities for the provision of broadband
 2-7 services.

2-8 Sec. 43.003. DEFINITIONS. In this chapter:

2-9 (1) "BPL," "broadband over power lines," and "BPL
 2-10 services" mean the provision of broadband services over electric
 2-11 power lines and related facilities, whether above ground or in
 2-12 underground conduit.

2-13 (2) "BPL access" means the ability to access broadband
 2-14 services via a BPL operator or BPL Internet service provider.

2-15 (3) "BPL operator" means an entity that owns or
 2-16 operates a BPL system on the electric power lines and related
 2-17 facilities of an electric utility.

2-18 (4) "BPL Internet service provider" and "BPL ISP" mean
 2-19 an entity that provides Internet services to others on a wholesale
 2-20 basis or to end-use customers on a retail basis.

2-21 (5) "BPL system" means the materials, equipment, and
 2-22 other facilities installed on electric utility property to
 2-23 facilitate the provision of BPL services.

2-24 (6) "BPL electric utility applications" means
 2-25 services and technologies that are used and useful and designed to
 2-26 improve the operational performance and service reliability of an
 2-27 electric utility including, but not limited to, automated meter
 2-28 reading, real time system monitoring and meter control, remote
 2-29 service control, outage detection and restoration, predictive
 2-30 maintenance and diagnostics, and monitoring and enhancement of
 2-31 power quality.

2-32 (7) "Electric delivery system" means the power lines
 2-33 and related transmission and distribution facilities used by an
 2-34 electric utility to deliver electric energy.

2-35 (8) "Electric utility" shall include an electric
 2-36 utility and a transmission and distribution utility as defined in
 2-37 Section 31.002(6) or (19).

2-38 [Sections 43.004-43.050 reserved for expansion]

2-39 SUBCHAPTER B. DEVELOPMENT OF BPL SYSTEMS

2-40 Sec. 43.051. AUTHORIZATION FOR BPL SYSTEM. An affiliate of
 2-41 an electric utility or a person unaffiliated with an electric
 2-42 utility may own, construct, maintain, and operate a BPL system and
 2-43 provide BPL services on an electric utility's electric delivery
 2-44 system consistent with the requirements of this chapter. Nothing
 2-45 in this chapter shall prohibit an entity defined in Section
 2-46 11.003(9) from providing BPL service or owning and operating a BPL
 2-47 system. Nothing in this chapter shall prohibit an electric utility
 2-48 from providing construction or maintenance services to a BPL
 2-49 operator or BPL ISP provided that the costs of these services are
 2-50 properly accounted for between the electric utility and the BPL
 2-51 operator or BPL ISP.

2-52 Sec. 43.052. OWNERSHIP AND OPERATION OF BPL SYSTEM.

2-53 (a) An electric utility may elect to:

2-54 (1) allow an affiliate to own or operate a BPL system
 2-55 on the utility's electric delivery system;

2-56 (2) allow an unaffiliated entity to own or operate a
 2-57 BPL system on the electric utility's electric delivery system; or

2-58 (3) allow an affiliate or unaffiliated entity to
 2-59 provide Internet service over a BPL system.

2-60 (b) The BPL operator and the electric utility shall
 2-61 determine what BPL Internet service providers may have access to
 2-62 broadband capacity on the BPL system.

2-63 Sec. 43.053. FEES AND CHARGES. (a) An electric utility
 2-64 that allows an affiliate or an unaffiliated entity to own a BPL
 2-65 system on the electric utility's electric delivery system shall
 2-66 charge the owner of the BPL system for the use of the electric
 2-67 utility's electric delivery system.

2-68 (b) An electric utility may pay a BPL owner, a BPL operator,
 2-69 or a BPL ISP for the use of the BPL system required to operate BPL

3-1 utility applications.

3-2 (c) If all or part of a BPL system is installed on poles or
 3-3 other structures of a telecommunications utility as that term is
 3-4 defined in Section 51.002, the owner of the BPL system shall be
 3-5 required to pay the telecommunications utility an annual fee
 3-6 consistent with the usual and customary charges for access to the
 3-7 space occupied by that portion of the BPL system so installed.

3-8 (d) Notwithstanding Subsections (a)-(c):

3-9 (1) an electric utility may not charge an affiliate
 3-10 under this section an amount less than the electric utility would
 3-11 charge an unaffiliated entity for the same item or class of items;

3-12 (2) an electric utility may not pay an affiliate under
 3-13 this section an amount more than the affiliate would charge an
 3-14 unaffiliated entity for the same item or class of items; and

3-15 (3) an electric utility or an affiliate of an electric
 3-16 utility may not discriminate against a retail electric provider
 3-17 that is not affiliated with the utility in the terms or availability
 3-18 of BPL services.

3-19 Sec. 43.054. NO ADDITIONAL EASEMENTS OR CONSIDERATION
 3-20 REQUIRED. Because BPL systems provide benefits to electric
 3-21 delivery systems, the installation of a BPL system on an electric
 3-22 delivery system shall not require the electric utility or the owner
 3-23 of the BPL system or an entity defined in Section 11.003(9) to
 3-24 obtain or expand easements or other rights-of-way for the BPL
 3-25 system or to give additional consideration as a result of the
 3-26 installation or the operation of a BPL system. For purposes of this
 3-27 section, installation of a BPL system shall be deemed to be
 3-28 consistent with installation of an electric delivery system.

3-29 Sec. 43.055. RELIABILITY OF ELECTRIC SYSTEMS MAINTAINED.
 3-30 An electric utility that allows the installation and operation of a
 3-31 BPL system on its electric delivery system shall employ all
 3-32 reasonable measures to ensure that the operation of the BPL system
 3-33 does not interfere with or diminish the reliability of the
 3-34 utility's electric delivery system. Should a disruption in the
 3-35 provision of electric service occur, the electric utility shall be
 3-36 governed by the terms and conditions of the retail electric
 3-37 delivery service tariff. At all times, the provision of broadband
 3-38 services shall be secondary to the reliable provision of electric
 3-39 delivery services.

3-40 [Sections 43.056-43.100 reserved for expansion]

3-41 SUBCHAPTER C. IMPLEMENTATION OF BPL SYSTEM BY
 3-42 ELECTRIC UTILITY

3-43 Sec. 43.101. PARTICIPATION BY ELECTRIC UTILITY. (a) An
 3-44 electric utility, through an affiliate or through an unaffiliated
 3-45 entity, may elect to install and operate a BPL system on some or all
 3-46 of its electric delivery system in any part or all of its
 3-47 certificated service area.

3-48 (b) The installation, operation, and use of a BPL system and
 3-49 the provision of BPL services shall not be regulated by the state, a
 3-50 municipality, or local government other than as provided for in
 3-51 this chapter.

3-52 (c) The commission or a state or local government or a
 3-53 regulatory or quasi-governmental or a quasi-regulatory authority
 3-54 may not:

3-55 (1) require an electric utility, either through an
 3-56 affiliate or an unaffiliated entity, to install a BPL system on its
 3-57 power lines or offer BPL services in all or any part of the electric
 3-58 utility's certificated service area;

3-59 (2) require an electric utility to allow others to
 3-60 install a BPL system on the utility's electric delivery system in
 3-61 any part or all of the electric utility's certificated service
 3-62 area; or

3-63 (3) prohibit an electric utility from having an
 3-64 affiliate or unaffiliated entity install a BPL system or offering
 3-65 BPL services in any part or all of the electric utility's
 3-66 certificated service area.

3-67 (d) If a municipality or local government is already
 3-68 collecting a charge or fee from the electric utility for the use of
 3-69 the public rights-of-way for the delivery of electricity to retail

4-1 electric customers, the municipality or local government is
 4-2 prohibited from requiring a franchise or an amendment to a
 4-3 franchise or from requiring a charge, fee, or tax from any entity
 4-4 for use of the public rights-of-way for a BPL system.

4-5 (e) The state or a municipality may impose a charge on the
 4-6 provision of BPL services, but the charge may not be greater than
 4-7 the lowest charge that the state or municipality imposes on other
 4-8 providers of broadband services for use of the public rights-of-way
 4-9 in its respective jurisdiction.

4-10 Sec. 43.102. COST RECOVERY FOR DEPLOYMENT OF BPL AND
 4-11 UTILITY APPLICATIONS. (a) Where an electric utility permits the
 4-12 installation of a BPL system on its electric delivery system under
 4-13 Section 43.052(a), the electric utility's investment in that BPL
 4-14 system to directly support the BPL electric utility applications
 4-15 and other BPL services consumed by the electric utility that are
 4-16 used and useful in providing electric utility service shall be
 4-17 eligible for inclusion in the electric utility's invested capital,
 4-18 and any fees or operating expenses that are reasonable and
 4-19 necessary shall be eligible for inclusion as operating expenses for
 4-20 purposes of any proceeding under Chapter 36. The invested capital
 4-21 and expenses described in this section must be allocated to the
 4-22 customer classes directly receiving the services.

4-23 (b) In any proceeding under Chapter 36, just and reasonable
 4-24 charges for the use of the electric utility's electric delivery
 4-25 system by a BPL owner or operator shall be limited to the usual and
 4-26 customary pole attachment charges paid to the electric utility for
 4-27 comparable space by cable television operators.

4-28 (c) The revenues of an affiliated BPL operator or an
 4-29 affiliated BPL ISP shall not be deemed the revenues of an electric
 4-30 utility for purposes of setting rates under Chapter 36.

4-31 [Sections 43.103-43.150 reserved for expansion]

4-32 SUBCHAPTER D. MISCELLANEOUS PROVISIONS

4-33 Sec. 43.151. AFFILIATES OF ELECTRIC UTILITY. (a) Subject
 4-34 to the limitations of this chapter, an electric utility may have a
 4-35 full or partial ownership interest in a BPL operator or a BPL ISP.
 4-36 Whether a BPL operator or a BPL ISP is an affiliate of the electric
 4-37 utility shall be determined under Section 11.003(2) or Section
 4-38 11.006.

4-39 (b) Neither a BPL operator nor a BPL ISP shall be considered
 4-40 a "competitive affiliate" of an electric utility as that term is
 4-41 defined in Section 39.157.

4-42 Sec. 43.152. COMPLIANCE WITH FEDERAL LAW. BPL operators
 4-43 shall comply with all applicable federal laws, including those
 4-44 protecting licensed spectrum users from interference by BPL
 4-45 systems. The operator of a radio frequency device shall be required
 4-46 to cease operating the device upon notification by a Federal
 4-47 Communications Commission representative that the device is
 4-48 causing harmful interference. Operation shall not resume until the
 4-49 condition causing the harmful interference has been corrected.

4-50 SECTION 3. Section 52.155, Utilities Code, is amended by
 4-51 amending Subsection (a) and adding Subsection (c) to read as
 4-52 follows:

4-53 (a) A telecommunications utility that holds a certificate
 4-54 of operating authority or a service provider certificate of
 4-55 operating authority may not charge a higher amount for originating
 4-56 or terminating intrastate switched access than the prevailing rates
 4-57 charged by the holder of the certificate of convenience and
 4-58 necessity or the holder of a certificate of operating authority
 4-59 issued under Chapter 65 in whose territory the call originated or
 4-60 terminated unless:

4-61 (1) the commission specifically approves the higher
 4-62 rate; or

4-63 (2) subject to commission review, the
 4-64 telecommunications utility establishes statewide average composite
 4-65 originating and terminating intrastate switched access rates based
 4-66 on a reasonable approximation of traffic originating and
 4-67 terminating between all holders of certificates of convenience and
 4-68 necessity in this state.

4-69 (c) Notwithstanding Subsection (a), Chapter 65 governs the

5-1 switched access rates of a company that holds a certificate of
5-2 operating authority issued under Chapter 65.

5-3 SECTION 4. Subchapter D, Chapter 52, Utilities Code, is
5-4 amended by adding Section 52.156 to read as follows:

5-5 Sec. 52.156. RETAIL RATES, TERMS, AND CONDITIONS. A
5-6 telecommunications utility may not:

5-7 (1) establish a retail rate, term, or condition that
5-8 is anticompetitive or unreasonably preferential, prejudicial, or
5-9 discriminatory; or

5-10 (2) engage in predatory pricing or attempt to engage
5-11 in predatory pricing.

5-12 SECTION 5. Section 54.202, Utilities Code, is amended by
5-13 adding Subsection (c) to read as follows:

5-14 (c) This section may not be construed to prevent a
5-15 municipally owned utility from providing to its energy customers,
5-16 either directly or indirectly, any energy related service involving
5-17 the transfer or receipt of information or data concerning the use,
5-18 measurement, monitoring, or management of energy utility services
5-19 provided by the municipally owned utility, including services such
5-20 as load management or automated meter reading.

5-21 SECTION 6. Section 54.251, Utilities Code, is amended by
5-22 amending Subsection (b) and adding Subsection (c) to read as
5-23 follows:

5-24 (b) Except as specifically determined otherwise by the
5-25 commission under this subchapter or Subchapter G, the holder of a
5-26 certificate of convenience and necessity, or the holder of a
5-27 certificate of operating authority issued under Chapter 65, for an
5-28 area has the obligations of a provider of last resort regardless of
5-29 whether another provider has a certificate of operating authority
5-30 or service provider certificate of operating authority for that
5-31 area.

5-32 (c) A certificate holder may meet the holder's provider of
5-33 last resort obligations using any available technology.
5-34 Notwithstanding any provision of Chapter 56, the commission may
5-35 adjust disbursements from the universal service fund to companies
5-36 using technologies other than traditional wireline or landline
5-37 technologies to meet provider of last resort obligations. As
5-38 determined by the commission, the certificate holder shall meet
5-39 minimum quality of service standards comparable to those
5-40 established for traditional wireline or landline technologies.

5-41 SECTION 7. Subchapter G, Chapter 54, Utilities Code, is
5-42 amended by adding Section 54.3015 to read as follows:

5-43 Sec. 54.3015. APPLICABILITY OF SUBCHAPTER. This subchapter
5-44 applies to a holder of a certificate of operating authority issued
5-45 under Chapter 65 in the same manner and to the same extent this
5-46 subchapter applies to a holder of a certificate of convenience and
5-47 necessity.

5-48 SECTION 8. Subchapter H, Chapter 55, Utilities Code, is
5-49 amended by adding Section 55.1735 to read as follows:

5-50 Sec. 55.1735. CHARGE FOR PAY PHONE ACCESS LINE. The charge
5-51 or surcharge a local exchange company imposes for an access line
5-52 used to provide pay telephone service in an exchange may not exceed
5-53 the amount of the charge or surcharge the company imposes for an
5-54 access line used for regular business purposes in that exchange.

5-55 SECTION 9. Section 56.021, Utilities Code, is amended to
5-56 read as follows:

5-57 Sec. 56.021. UNIVERSAL SERVICE FUND ESTABLISHED. The
5-58 commission shall adopt and enforce rules requiring local exchange
5-59 companies to establish a universal service fund to:

5-60 (1) assist telecommunications providers in providing
5-61 basic local telecommunications service at reasonable rates in high
5-62 cost rural areas;

5-63 (2) reimburse the telecommunications carrier that
5-64 provides the statewide telecommunications relay access service
5-65 under Subchapter D;

5-66 (3) finance the specialized telecommunications
5-67 assistance program established under Subchapter E;

5-68 (4) reimburse the department, the Texas Commission for
5-69 the Deaf and Hard of Hearing, and the commission for costs incurred

6-1 in implementing this chapter and Chapter 57;

6-2 (5) reimburse a telecommunications carrier providing
6-3 lifeline service as provided by 47 C.F.R. Part 54, Subpart E, as
6-4 amended;

6-5 (6) finance the implementation and administration of
6-6 an integrated eligibility process created under Section 17.007 for
6-7 customer service discounts relating to telecommunications
6-8 services, including outreach expenses the commission determines
6-9 are reasonable and necessary;

6-10 (7) reimburse a designated provider under Subchapter
6-11 F; ~~and~~

6-12 (8) reimburse a successor utility under Subchapter G;
6-13 and

6-14 (9) finance the program established under Subchapter
6-15 H.

6-16 SECTION 10. Section 56.025, Utilities Code, is amended by
6-17 adding Subsection (g) to read as follows:

6-18 (g) This section expires August 31, 2007.

6-19 SECTION 11. Section 56.026, Utilities Code, is amended by
6-20 adding Subsection (e) to read as follows:

6-21 (e) This subsection and Subsections (c) and (d) expire
6-22 August 31, 2007.

6-23 SECTION 12. Subchapter B, Chapter 56, Utilities Code, is
6-24 amended by adding Sections 56.029 and 56.030 to read as follows:

6-25 Sec. 56.029. COMMISSION REVIEW AND EVALUATION OF SUPPORT
6-26 AMOUNTS; ORDER. (a) On or before October 1, 2005, the commission
6-27 shall initiate a review and evaluation of the monthly per line
6-28 support amounts available from the Texas High Cost Universal
6-29 Service Plan and from the Small and Rural Incumbent Local Exchange
6-30 Company Universal Service Plan.

6-31 (b) The review and evaluation must include the commission's
6-32 determination of appropriate monthly per line support amounts to be
6-33 made available from the Texas High Cost Universal Service Plan and
6-34 from the Small and Rural Incumbent Local Exchange Company Universal
6-35 Service Plan. The commission shall conduct necessary proceedings
6-36 to determine the appropriate monthly per line support amounts to be
6-37 made available from those plans and the appropriate costs and
6-38 revenues to be used to compute those amounts.

6-39 (c) On or before November 15, 2006, the commission shall
6-40 issue an order establishing the appropriate monthly per line
6-41 support amounts to be made available from the Texas High Cost
6-42 Universal Service Plan and from the Small and Rural Incumbent Local
6-43 Exchange Company Universal Service Plan. The order takes effect
6-44 September 1, 2007. The commission shall deliver the order to the
6-45 lieutenant governor and the speaker of the house of representatives
6-46 on the date the commission issues the order.

6-47 (d) The commission may revise the monthly per line support
6-48 amounts to be made available from the Texas High Cost Universal
6-49 Service Plan and from the Small and Rural Incumbent Local Exchange
6-50 Company Universal Service Plan at any time after September 1, 2007,
6-51 after notice and an opportunity for hearing.

6-52 (e) This subsection and Subsections (a), (b), and (c) expire
6-53 September 1, 2007.

6-54 Sec. 56.030. AFFIDAVITS OF COMPLIANCE. On or before
6-55 September 1 of each year, a telecommunications provider that
6-56 receives disbursements from the universal service fund shall file
6-57 with the commission an affidavit certifying that the
6-58 telecommunications provider is in compliance with the requirements
6-59 for receiving money from the universal service fund and
6-60 requirements regarding the use of money from each universal service
6-61 fund program for which the telecommunications provider receives
6-62 disbursements.

6-63 SECTION 13. Subchapter B, Chapter 56, Utilities Code, is
6-64 amended by adding Section 56.031 to read as follows:

6-65 Sec. 56.031. COMMISSION REVIEW AND EVALUATION OF DISTANCE
6-66 LEARNING DISCOUNTS AND PRIVATE NETWORK SERVICES FOR CERTAIN
6-67 ENTITIES. (a) On or before October 1, 2005, the commission shall
6-68 initiate a study for the purpose of evaluating a new funding
6-69 mechanism to provide financial support to all telecommunications

7-1 utilities that provide discounts or private network services at
 7-2 prescribed rates to the entities identified in Subchapter B,
 7-3 Chapter 57, Subchapter G, Chapter 58, and Subchapter D, Chapter 59.

7-4 (b) The study must include an evaluation of alternative
 7-5 sources of funding such support, including utilizing federal E-rate
 7-6 funding, and an evaluation of alternative funding mechanisms that
 7-7 would result in support being made available to all
 7-8 telecommunications utilities on a nondiscriminatory basis and on a
 7-9 technology neutral basis in exchange for providing services at
 7-10 rates comparable to those preferred rates being paid by the
 7-11 entities identified under Subchapter B, Chapter 57, Subchapter G,
 7-12 Chapter 58, and Subchapter D, Chapter 59, provisions.

7-13 (c) The commission shall conduct necessary proceedings to
 7-14 evaluate the appropriate funding mechanism and the appropriate
 7-15 method for determining the amount of support to be made available to
 7-16 telecommunications utilities that provide discounts to entities
 7-17 listed in Subsection (b).

7-18 (d) On or before November 15, 2006, the commission shall
 7-19 issue a report to the speaker of the house of representatives and
 7-20 the lieutenant governor on the viability of establishing a new
 7-21 program or funding mechanism through which support shall be funded
 7-22 and disbursed in exchange for providing discounts to the entities
 7-23 listed in Subsection (b). The commission shall include in the
 7-24 report its findings regarding the cost of any new funding
 7-25 mechanism, the benefit of establishing a new program or funding
 7-26 mechanism, and any other relevant information the commission deems
 7-27 appropriate to assist the legislature in its review of discounts
 7-28 for distance learning and private network services. This section
 7-29 expires September 1, 2007.

7-30 SECTION 14. Chapter 56, Utilities Code, is amended by
 7-31 adding Subchapter H to read as follows:

7-32 SUBCHAPTER H. AUDIO NEWSPAPER PROGRAM

7-33 Sec. 56.301. AUDIO NEWSPAPER ASSISTANCE PROGRAM. The
 7-34 commission by rule shall establish a program to provide from the
 7-35 universal service fund financial assistance for a free telephone
 7-36 service for blind and visually impaired persons that offers the
 7-37 text of newspapers using synthetic speech. The commission may
 7-38 adopt rules to implement the program.

7-39 SECTION 15. Section 57.048, Utilities Code, is amended by
 7-40 adding Subsections (f) through (i) to read as follows:

7-41 (f) Notwithstanding any other provision of this title, a
 7-42 certificated telecommunications utility may recover from the
 7-43 utility's customers an assessment imposed on the utility under this
 7-44 subchapter after the total amount deposited to the credit of the
 7-45 fund, excluding interest and loan repayments, is equal to \$1.5
 7-46 billion, as determined by the comptroller. A certificated
 7-47 telecommunications utility may recover only the amount of the
 7-48 assessment imposed after the total amount deposited to the credit
 7-49 of the fund, excluding interest and loan repayments, is equal to
 7-50 \$1.5 billion, as determined by the comptroller. The utility may
 7-51 recover the assessment through a monthly billing process.

7-52 (g) The comptroller shall publish in the Texas Register the
 7-53 date on which the total amount deposited to the credit of the fund,
 7-54 excluding interest and loan repayments, is equal to \$1.5 billion.

7-55 (h) Not later than February 15 of each year, a certificated
 7-56 telecommunications utility that wants to recover the assessment
 7-57 under Subsection (f) shall file with the commission an affidavit or
 7-58 affirmation stating the amount that the utility paid to the
 7-59 comptroller under this section during the previous calendar year
 7-60 and the amount the utility recovered from its customers in
 7-61 cumulative payments during that year.

7-62 (i) The commission shall maintain the confidentiality of
 7-63 information the commission receives under this section that is
 7-64 claimed to be confidential for competitive purposes. The
 7-65 confidential information is exempt from disclosure under Chapter
 7-66 552, Government Code.

7-67 SECTION 16. Section 57.051, Utilities Code, is amended to
 7-68 read as follows:

7-69 Sec. 57.051. SUNSET PROVISION. The Telecommunications

8-1 Infrastructure Fund [~~Board~~] is subject to Chapter 325, Government
 8-2 Code (Texas Sunset Act). Unless continued in existence as provided
 8-3 by that chapter, [~~the board is abolished and~~] this subchapter
 8-4 expires September 1, 2011 [~~2005~~].

8-5 SECTION 17. Subsection (a), Section 58.258, Utilities Code,
 8-6 is amended to read as follows:

8-7 (a) Notwithstanding the pricing flexibility authorized by
 8-8 this subtitle, an electing company's rates for private network
 8-9 services may not be increased [~~on or~~] before January 1, 2012 [~~the~~
 8-10 ~~sixth anniversary of the company's date of election~~]. However, an
 8-11 electing company may increase a rate in accordance with the
 8-12 provisions of a customer specific contract.

8-13 SECTION 18. Subsection (a), Section 58.051, Utilities Code,
 8-14 is amended to read as follows:

8-15 (a) Unless reclassified under Section 58.024, the following
 8-16 services are basic network services:

- 8-17 (1) flat rate residential local exchange telephone
- 8-18 service, including primary directory listings and the receipt of a
- 8-19 directory and any applicable mileage or zone charges;
- 8-20 (2) residential tone dialing service;
- 8-21 (3) lifeline and tel-assistance service;
- 8-22 (4) service connection for basic residential
- 8-23 services;
- 8-24 (5) direct inward dialing service for basic
- 8-25 residential services;
- 8-26 (6) private pay telephone access service;
- 8-27 (7) call trap and trace service;
- 8-28 (8) access for all residential and business end users
- 8-29 to 911 service provided by a local authority and access to dual
- 8-30 party relay service;
- 8-31 (9) mandatory residential extended area service
- 8-32 arrangements; and
- 8-33 (10) mandatory residential extended metropolitan
- 8-34 service or other mandatory residential toll-free calling
- 8-35 arrangements[~~, and~~
- 8-36 ~~(11) residential call waiting service~~].

8-37 SECTION 19. Section 58.151, Utilities Code, is amended to
 8-38 read as follows:

8-39 Sec. 58.151. SERVICES INCLUDED. The following services are
 8-40 classified as nonbasic services:

- 8-41 (1) flat rate business local exchange telephone
- 8-42 service, including primary directory listings and the receipt of a
- 8-43 directory, and any applicable mileage or zone charges, except that
- 8-44 the prices for this service shall be capped until September 1, 2005,
- 8-45 at the prices in effect on September 1, 1999;
- 8-46 (2) business tone dialing service, except that the
- 8-47 prices for this service shall be capped until September 1, 2005, at
- 8-48 the prices in effect on September 1, 1999;
- 8-49 (3) service connection for all business services,
- 8-50 except that the prices for this service shall be capped until
- 8-51 September 1, 2005, at the prices in effect on September 1, 1999;
- 8-52 (4) direct inward dialing for basic business services,
- 8-53 except that the prices for this service shall be capped until
- 8-54 September 1, 2005, at the prices in effect on September 1, 1999;
- 8-55 (5) "1-plus" intraLATA message toll services;
- 8-56 (6) 0+ and 0- operator services;
- 8-57 (7) call waiting, call forwarding, and custom calling,
- 8-58 except that:

8-59 (A) residential call waiting service shall be
 8-60 classified as a basic network service until July 1, 2006; and

8-61 (B) for an electing company subject to Section
 8-62 58.301, prices for residential call forwarding and other custom
 8-63 calling services shall be capped at the prices in effect on
 8-64 September 1, 1999, until the electing company implements the
 8-65 reduction in switched access rates described by Section 58.301(2);

8-66 (8) call return, caller identification, and call
 8-67 control options, except that, for an electing company subject to
 8-68 Section 58.301, prices for residential call return, caller
 8-69 identification, and call control options shall be capped at the

9-1 prices in effect on September 1, 1999, until the electing company
 9-2 implements the reduction in switched access rates described by
 9-3 Section 58.301(2);
 9-4 (9) central office based PBX-type services;
 9-5 (10) billing and collection services, including
 9-6 installment billing and late payment charges for customers of the
 9-7 electing company;
 9-8 (11) integrated services digital network (ISDN)
 9-9 services, except that prices for Basic Rate Interface (BRI) ISDN
 9-10 services, which comprise up to two 64 Kbps B-channels and one 16
 9-11 Kbps D-channel, shall be capped until September 1, 2005, at the
 9-12 prices in effect on September 1, 1999;
 9-13 (12) new services;
 9-14 (13) directory assistance services, except that an
 9-15 electing company shall provide to a residential customer the first
 9-16 three directory assistance inquiries in a monthly billing cycle at
 9-17 no charge until January 1, 2007;
 9-18 (14) services described in the WATS tariff as the
 9-19 tariff existed on January 1, 1995;
 9-20 (15) 800 and foreign exchange services;
 9-21 (16) private line service;
 9-22 (17) special access service;
 9-23 (18) services from public pay telephones;
 9-24 (19) paging services and mobile services (IMTS);
 9-25 (20) 911 services provided to a local authority that
 9-26 are available from another provider;
 9-27 (21) speed dialing;
 9-28 (22) three-way calling; and
 9-29 (23) all other services subject to the commission's
 9-30 jurisdiction that are not specifically classified as basic network
 9-31 services in Section 58.051, except that nothing in this section
 9-32 shall preclude a customer from subscribing to a local flat rate
 9-33 residential or business line for a computer modem or a facsimile
 9-34 machine.

9-35 SECTION 20. Subchapter G, Chapter 58, Utilities Code, is
 9-36 amended by adding Section 58.268 to read as follows:

9-37 Sec. 58.268. CONTINUATION OF OBLIGATION. Notwithstanding
 9-38 any other provision of this title, an electing company shall
 9-39 continue to comply with this subchapter until January 1, 2012,
 9-40 regardless of:

- 9-41 (1) the date the company elected under this chapter;
 9-42 or
 9-43 (2) any action taken in relation to that company under
 9-44 Chapter 65.

9-45 SECTION 21. Subsection (a), Section 59.077, Utilities Code,
 9-46 is amended to read as follows:

9-47 (a) Notwithstanding the pricing flexibility authorized by
 9-48 this subtitle, an electing company's rates for private network
 9-49 services may not be increased ~~on or~~ before January 1, 2012 ~~[the~~
 9-50 ~~sixth anniversary of the company's election date].~~

9-51 SECTION 22. Subchapter D, Chapter 59, Utilities Code, is
 9-52 amended by adding Section 59.083 to read as follows:

9-53 Sec. 59.083. CONTINUATION OF OBLIGATION. Notwithstanding
 9-54 any other provision of this title, an electing company shall
 9-55 continue to comply with this subchapter until January 1, 2012,
 9-56 regardless of:

- 9-57 (1) the date the company elected under this chapter;
 9-58 or
 9-59 (2) any action taken in relation to that company under
 9-60 Chapter 65.

9-61 SECTION 23. Chapter 60, Utilities Code, is amended by
 9-62 adding Subchapter J to read as follows:

9-63 SUBCHAPTER J. WHOLESALE CODE OF CONDUCT

9-64 Sec. 60.201. STATEMENT OF POLICY. It is the policy of this
 9-65 state that providers of telecommunications services operate in a
 9-66 manner that is consistent with minimum standards to provide
 9-67 customers with continued competitive choices.

9-68 Sec. 60.202. APPLICABILITY OF SUBCHAPTER. A provision of
 9-69 this subchapter applies only to the extent the provision has not

10-1 been preempted by federal law or a rule, regulation, or order of the
 10-2 Federal Communications Commission.

10-3 Sec. 60.203. MINIMUM SERVICE REQUIREMENTS. A
 10-4 telecommunications provider may not unreasonably:

10-5 (1) discriminate against another provider by refusing
 10-6 access to an exchange;

10-7 (2) refuse or delay an interconnection to another
 10-8 provider;

10-9 (3) degrade the quality of access the
 10-10 telecommunications provider provides to another provider;

10-11 (4) impair the speed, quality, or efficiency of a line
 10-12 used by another provider;

10-13 (5) fail to fully disclose in a timely manner on
 10-14 request all available information necessary to design equipment
 10-15 that will meet the specifications of the network; or

10-16 (6) refuse or delay access by a person to another
 10-17 provider.

10-18 Sec. 60.204. INTERCONNECTION. (a) A telecommunications
 10-19 provider shall provide interconnection with other
 10-20 telecommunications providers' networks for the transmission and
 10-21 routing of telephone exchange service and exchange access.

10-22 (b) A telecommunications provider shall provide the
 10-23 interconnection at any technically feasible point within the
 10-24 provider's network and at rates, terms, and conditions that are
 10-25 just, reasonable, and nondiscriminatory. The quality of the
 10-26 interconnection must be at least equal to the quality of the
 10-27 interconnection provided to itself, a subsidiary or affiliate of
 10-28 the provider, or any other party to which the provider provides
 10-29 interconnection.

10-30 Sec. 60.205. NUMBER PORTABILITY. A telecommunications
 10-31 provider shall provide number portability in accordance with
 10-32 federal requirements.

10-33 Sec. 60.206. DUTY TO NEGOTIATE. A telecommunications
 10-34 provider shall negotiate in good faith the terms and conditions of
 10-35 any agreement.

10-36 Sec. 60.207. DIALING PARITY. (a) A telecommunications
 10-37 provider shall provide dialing parity to competing
 10-38 telecommunications providers of telephone exchange service and
 10-39 telephone toll service.

10-40 (b) A telecommunications provider shall provide
 10-41 nondiscriminatory access to telephone numbers, operator services,
 10-42 directory assistance, and directory listings and may not delay that
 10-43 access unreasonably.

10-44 Sec. 60.208. ACCESS TO RIGHTS-OF-WAY. A telecommunications
 10-45 provider shall provide access to poles, ducts, conduits, and
 10-46 rights-of-way to competing providers of telecommunications service
 10-47 on rates, terms, and conditions that are just, reasonable, and
 10-48 nondiscriminatory.

10-49 Sec. 60.209. RECIPROCAL COMPENSATION. A
 10-50 telecommunications provider shall establish reciprocal
 10-51 compensation arrangements for the transport and termination of
 10-52 telecommunications.

10-53 Sec. 60.210. ACCESS TO SERVICES. A telecommunications
 10-54 provider shall provide access to:

10-55 (1) 911 and E-911 service;

10-56 (2) directory assistance service to allow other
 10-57 telecommunications providers' customers to obtain telephone
 10-58 numbers; and

10-59 (3) operator call completion service.

10-60 SECTION 24. Subchapter A, Chapter 62, Utilities Code, is
 10-61 amended by adding Section 62.003 to read as follows:

10-62 Sec. 62.003. REQUIREMENTS RELATING TO AUDIO AND VIDEO
 10-63 PROGRAMMING. (a) This section applies only to a provider of
 10-64 advanced services or local exchange telephone service that has more
 10-65 than 500,000 access lines in service in this state and that delivers
 10-66 audio programming with localized content or video programming to
 10-67 its subscribers.

10-68 (b) Notwithstanding any other provision of this title, a
 10-69 provider of advanced services or local exchange telephone service

11-1 shall provide subscribers access to the signals of the local
 11-2 broadcast television and radio stations licensed by the Federal
 11-3 Communications Commission to serve those subscribers over the air;
 11-4 provided with respect to low power television stations, this
 11-5 section shall only apply to those low power television stations
 11-6 that are "qualified low power stations" as defined in 47 U.S.C.
 11-7 Section 534(h)(2).

11-8 (c) To facilitate access by subscribers of a provider of
 11-9 advanced services or local exchange telephone service to the
 11-10 signals of local broadcast stations, a station either shall be
 11-11 granted mandatory carriage or may request retransmission consent
 11-12 with the provider.

11-13 (d) This title does not require a provider of advanced
 11-14 services or local exchange telephone service to provide a
 11-15 television or radio station valuable consideration in exchange for
 11-16 carriage.

11-17 (e) A provider of advanced services or local exchange
 11-18 telephone service shall transmit without degradation the signals a
 11-19 local broadcast station delivers to the provider. The transmission
 11-20 quality offered a broadcast station may not be lower than the
 11-21 quality made available to another broadcast station or video or
 11-22 audio programming source.

11-23 (f) A provider of advanced services or local exchange
 11-24 telephone service that delivers audio or video programming to its
 11-25 subscribers may not:

11-26 (1) discriminate among broadcast stations or between
 11-27 broadcast stations on the one hand and programming providers on the
 11-28 other with respect to transmission of their signals, taking into
 11-29 account any consideration afforded a provider of advanced services
 11-30 or local exchange telephone service by any such programming
 11-31 provider or broadcast station; or

11-32 (2) delete, change, or alter a copyright
 11-33 identification transmitted as part of a broadcast station's signal.

11-34 (g) A provider of advanced services or local exchange
 11-35 telephone service that delivers audio or video programming shall be
 11-36 subject to any applicable network nonduplication or syndicated
 11-37 exclusivity rules promulgated by the Federal Communications
 11-38 Commission to the extent applicable to cable systems as defined by
 11-39 the commission.

11-40 (h) A provider of advanced services or local exchange
 11-41 telephone service that delivers audio or video programming to its
 11-42 subscribers shall include all programming providers in a subscriber
 11-43 programming guide, if any, that lists program schedules.

11-44 SECTION 25. (a) Chapter 64, Utilities Code, is amended by
 11-45 adding Subchapter F to read as follows:

11-46 SUBCHAPTER F. PROTECTIONS RELATED TO BROADBAND
 11-47 NETWORKS AND ADVANCED SERVICES

11-48 Sec. 64.251. POLICY. It is the policy of this state to
 11-49 foster free market intermodal communications competition,
 11-50 including providing incentives to invest in advanced
 11-51 communications infrastructure, while still maintaining the "end to
 11-52 end" concept that facilitated the creation and growth of the
 11-53 Internet and still preserving customer choice in the
 11-54 Internet-enabled applications customers employ in association with
 11-55 broadband service.

11-56 Sec. 64.252. PROHIBITION ON PREVENTION OR INHIBITION. A
 11-57 network provider that deploys broadband networks and provides
 11-58 advanced services may not prevent or inhibit the use of any
 11-59 application or product by customers in association with the use of
 11-60 an advanced service by blocking transmission and delivery of
 11-61 traffic to and from a particular port, Internet address, or
 11-62 Internet site, by limiting the speed available for use by any
 11-63 particular application, or by instituting technical limitations on
 11-64 the use of any Internet-enabled application. However, a network
 11-65 provider may take reasonable and necessary actions to protect the
 11-66 network from harm and to prevent degradation of service to its
 11-67 general body of customers. This section does not prohibit a network
 11-68 provider from offering or supporting a service or application,
 11-69 including adware, spyware, malware, antivirus, antispam, content

12-1 filtering, or parental controls or protections, if the customer has
 12-2 a choice between the network provider's service or application and
 12-3 those of an unaffiliated vendor.

12-4 Sec. 64.253. PROHIBITION ON BLOCKING AND REDIRECTING. A
 12-5 network provider that deploys broadband networks and provides
 12-6 advanced services or an Internet service may not knowingly or
 12-7 intentionally block or redirect a customer's attempt to access an
 12-8 Internet application or advanced service without notice to the
 12-9 customer unless the:

12-10 (1) blocking or redirecting is necessary to comply
 12-11 with the Digital Millennium Copyright Act (Pub. L. No. 105-304),
 12-12 any other federal or state law, a court order, a request from a law
 12-13 enforcement official, or a lawful process or is necessary for
 12-14 reasons of national security;

12-15 (2) owner or others in control of the application or
 12-16 advanced service request the blocking or redirecting of traffic;

12-17 (3) blocking or redirecting is necessary for the
 12-18 protection of the advanced services provider's or Internet service
 12-19 provider's customers, network, facilities, or business reputation
 12-20 or is the consequence of the advanced services provider's or
 12-21 Internet service provider's activities with respect to
 12-22 maintenance, monitoring, repair, network, reconfiguration,
 12-23 software or hardware changes, or network outages;

12-24 (4) blocking or redirecting occurs as a result of
 12-25 software changes, incompatibility of software used by the customer,
 12-26 or any other reason attributable to a third party or not within the
 12-27 reasonable control of the advanced services provider or Internet
 12-28 service provider;

12-29 (5) blocking or redirecting is done to provide notice
 12-30 to the customer of:

12-31 (A) network conditions;

12-32 (B) conditions pertaining to the customer's
 12-33 system or software; or

12-34 (C) changes to prices, features, functions,
 12-35 operations, or terms of service; or

12-36 (6) action taken is incident to the enforcement of, or
 12-37 allowed by, the posted terms of service, privacy policy or
 12-38 acceptable use policies, or conditions that apply to use of the
 12-39 service.

12-40 Sec. 64.254. JURISDICTION. The commission has jurisdiction
 12-41 to enforce this subchapter.

12-42 (b) The Public Utility Commission of Texas shall conduct a
 12-43 study to determine whether Title 2, Utilities Code, adequately
 12-44 preserves customer choice in the Internet-enabled applications
 12-45 employed in association with broadband service and shall report its
 12-46 conclusions and recommendations to the legislature not later than
 12-47 January 1, 2007. The study must include consultation with and
 12-48 comment from all interested parties.

12-49 SECTION 26. Subtitle C, Title 2, Utilities Code, is amended
 12-50 by adding Chapter 65 to read as follows:

12-51 CHAPTER 65. DEREGULATION OF CERTAIN INCUMBENT LOCAL EXCHANGE

12-52 COMPANY MARKETS

12-53 SUBCHAPTER A. GENERAL PROVISIONS

12-54 Sec. 65.001. STATEMENT OF POLICY. It is the policy of this
 12-55 state to provide for full rate and service competition in the
 12-56 telecommunications market of this state so that customers may
 12-57 benefit from innovations in service quality and market-based
 12-58 pricing.

12-59 Sec. 65.002. DEFINITIONS. In this chapter:

12-60 (1) "Deregulated company" means an incumbent local
 12-61 exchange company for which all of the company's markets have been
 12-62 deregulated.

12-63 (2) "Market" means an exchange in which an incumbent
 12-64 local exchange company provides residential local exchange
 12-65 telephone service.

12-66 (3) "Regulated company" means an incumbent local
 12-67 exchange company for which none of the company's markets have been
 12-68 deregulated.

12-69 (4) "Stand-alone residential local exchange voice

13-1 service" means:

13-2 (A) residential tone dialing service;
 13-3 (B) services and functionalities supported under
 13-4 the lifeline program;

13-5 (C) access for all residential end users to 911
 13-6 service provided by a local authority and access to dual party relay
 13-7 service;

13-8 (D) at the election of the incumbent local
 13-9 exchange company, mandatory residential extended area service
 13-10 arrangements, mandatory residential extended metropolitan service
 13-11 or other mandatory residential toll-free calling arrangements,
 13-12 mandatory expanded local calling service arrangements, or another
 13-13 service that a company is required under a tariff to provide to a
 13-14 customer who subscribes or may subscribe to basic network services;
 13-15 and

13-16 (E) flat rate residential local exchange
 13-17 telephone service delivered by landline, but only if the service is
 13-18 ordered and received independent of:

13-19 (i) a service classified as a nonbasic
 13-20 service under Section 58.151 or residential call waiting service;

13-21 (ii) a package of services that includes a
 13-22 service classified as a nonbasic service under Section 58.151; or

13-23 (iii) another flat rate residential local
 13-24 exchange service delivered by landline.

13-25 (5) "Transitioning company" means an incumbent local
 13-26 exchange company for which at least one, but not all, of the
 13-27 company's markets has been deregulated.

13-28 Sec. 65.003. COMMISSION AUTHORITY. (a) Notwithstanding
 13-29 any other provisions of this title, the commission has authority to
 13-30 implement and enforce this chapter.

13-31 (b) The commission may adopt rules and conduct proceedings
 13-32 necessary to administer and enforce this chapter, including rules
 13-33 to determine whether a market should remain regulated, should be
 13-34 deregulated, or should be reregulated.

13-35 Sec. 65.004. INFORMATION. (a) The commission may collect
 13-36 and compile information from all telecommunications providers as
 13-37 necessary to implement and enforce this chapter.

13-38 (b) The commission shall maintain the confidentiality of
 13-39 information collected under this chapter that is claimed to be
 13-40 confidential for competitive purposes. Information that is claimed
 13-41 to be confidential is exempt from disclosure under Chapter 552,
 13-42 Government Code.

13-43 Sec. 65.005. CUSTOMER PROTECTION. This chapter does not
 13-44 affect a customer's right to complain to the commission regarding a
 13-45 telecommunications provider.

13-46 [Sections 65.006-65.050 reserved for expansion]

13-47 SUBCHAPTER B. DETERMINATION OF WHETHER MARKET SHOULD BE REGULATED

13-48 Sec. 65.051. MARKETS DEREGULATED. (a) Except as provided
 13-49 by Subsection (b), all markets of all incumbent local exchange
 13-50 companies are deregulated on January 1, 2006, unless the commission
 13-51 determines under Section 65.052(a) that a market or markets should
 13-52 remain regulated.

13-53 (b) A market of an incumbent local exchange company in which
 13-54 the population in the area included in the market is less than
 13-55 30,000 is deregulated on January 1, 2007, unless the commission
 13-56 determines under Section 65.052(f) that the market should remain
 13-57 regulated.

13-58 Sec. 65.052. DETERMINATION OF WHETHER A MARKET SHOULD
 13-59 REMAIN REGULATED. (a) Except as provided by Subsection (f), the
 13-60 commission shall:

13-61 (1) determine whether each market of an incumbent
 13-62 local exchange company should remain regulated on and after January
 13-63 1, 2006; and

13-64 (2) issue a final order classifying the company in
 13-65 accordance with this section effective January 1, 2006.

13-66 (b) In making a determination under Subsection (a), the
 13-67 commission may not determine that a market should remain regulated
 13-68 if:

13-69 (1) the population in the area included in the market

14-1 is at least 100,000; or

14-2 (2) the population in the area included in the market
 14-3 is at least 30,000 but less than 100,000 and, in addition to the
 14-4 incumbent local exchange company, there are at least three
 14-5 competitors of which:

14-6 (A) at least one is a telecommunications provider
 14-7 that holds a certificate of operating authority or service provider
 14-8 certificate of operating authority and provides residential local
 14-9 exchange telephone service in the market;

14-10 (B) at least one is an entity providing
 14-11 residential telephone service in the market using facilities that
 14-12 the entity owns; and

14-13 (C) at least one is a provider in that market of
 14-14 commercial mobile service as defined by Section 332(d),
 14-15 Communications Act of 1934 (47 U.S.C. Section 151 et seq.), Federal
 14-16 Communications Commission rules, and the Omnibus Budget
 14-17 Reconciliation Act of 1993 (Pub. L. No. 103-66), that is not
 14-18 affiliated with the incumbent local exchange company.

14-19 (c) The commission shall issue an order classifying an
 14-20 incumbent local exchange company as a deregulated company that is
 14-21 subject to Subchapter C if:

14-22 (1) the company does not have any markets in which the
 14-23 population in the area included in the market is less than 30,000;
 14-24 and

14-25 (2) the commission does not determine that a market of
 14-26 the company should remain regulated on and after January 1, 2006.

14-27 (d) Regardless of the population in the area included in an
 14-28 incumbent local exchange company's markets, the commission shall
 14-29 issue an order classifying the company as a transitioning company
 14-30 that is subject to Subchapter D if the commission determines that
 14-31 one or more, but not all, of the markets of the company should
 14-32 remain regulated on and after January 1, 2006.

14-33 (e) The commission shall issue an order classifying the
 14-34 company as a regulated company that is subject to the provisions of
 14-35 this title that applied to the company on September 1, 2005, if the
 14-36 commission determines that all of the markets of the company in
 14-37 which the population in each area included in the markets is at
 14-38 least 30,000 should remain regulated on and after January 1, 2006.
 14-39 This subsection does not affect the authority of a regulated
 14-40 company to elect under Chapter 58 or 59 after January 1, 2005, and
 14-41 to be regulated under the chapter under which the company elected.

14-42 (f) Not later than November 30, 2006, the commission shall
 14-43 determine whether a market of an incumbent local exchange company
 14-44 in which the population in the area included in the market is less
 14-45 than 30,000 should remain regulated on or after January 1, 2007.
 14-46 The commission by rule shall determine the market test to be applied
 14-47 in determining whether the market should remain regulated. If the
 14-48 commission does not determine that the market should remain
 14-49 regulated on or after January 1, 2007, and the deregulation of that
 14-50 market results in a transitioning or regulated company no longer
 14-51 meeting the definition of a transitioning or regulated company, as
 14-52 appropriate, the commission shall issue an order reclassifying the
 14-53 company appropriately.

14-54 Sec. 65.053. INCUMBENT LOCAL EXCHANGE COMPANY MARKETS.

14-55 (a) Notwithstanding Section 65.052, an incumbent local exchange
 14-56 company may elect to have all of the company's markets remain
 14-57 regulated on and after January 1, 2006.

14-58 (b) To make an election under Subsection (a), an incumbent
 14-59 local exchange company must file an affidavit with the commission
 14-60 making that election not later than December 1, 2005.

14-61 (c) If an incumbent local exchange company makes an election
 14-62 under this section, the commission shall issue an order classifying
 14-63 the company as a regulated company that is subject to the provisions
 14-64 of this title that applied to the company on September 1, 2005.
 14-65 This subsection does not affect the authority of a regulated
 14-66 company to elect under Chapter 58 or 59 after January 1, 2005, and
 14-67 to be regulated under the chapter under which the company elected.

14-68 Sec. 65.054. PETITION FOR DEREGULATION. (a) After July 1,
 14-69 2007, a transitioning or regulated company may petition the

15-1 commission to deregulate a market that the commission previously
 15-2 determined should remain regulated.

15-3 (b) If the commission deregulates a market under this
 15-4 section and the deregulation results in the transitioning or
 15-5 regulated company no longer meeting the definition of a
 15-6 transitioning or regulated company, as appropriate, the commission
 15-7 shall issue an order reclassifying the company appropriately.

15-8 Sec. 65.055. COMMISSION AUTHORITY TO REREGULATE CERTAIN
 15-9 MARKETS. (a) This section applies only to a market of an incumbent
 15-10 local exchange company in which the population in the area included
 15-11 in the market is less than 100,000.

15-12 (b) The commission, on its own motion or on a complaint that
 15-13 the commission considers to have merit, may determine that a market
 15-14 that was previously deregulated should again be subject to
 15-15 regulation.

15-16 (c) The commission by rule shall prescribe the procedures
 15-17 and standards applicable to a determination under this section.

15-18 [Sections 65.056-65.100 reserved for expansion]

15-19 SUBCHAPTER C. DEREGULATED COMPANY

15-20 Sec. 65.101. ISSUANCE OF CERTIFICATE OF OPERATING
 15-21 AUTHORITY. (a) A deregulated company may petition the commission
 15-22 to relinquish the company's certificate of convenience and
 15-23 necessity and receive a certificate of operating authority.

15-24 (b) The commission shall issue the deregulated company a
 15-25 certificate of operating authority and rescind the deregulated
 15-26 company's certificate of convenience and necessity if the
 15-27 commission finds that all of the company's markets have been
 15-28 deregulated under Subchapter B.

15-29 Sec. 65.102. REQUIREMENTS. (a) A deregulated company that
 15-30 holds a certificate of operating authority issued under this
 15-31 subchapter is a nondominant carrier governed in the same manner as a
 15-32 holder of a certificate of operating authority issued under Chapter
 15-33 54, except that the deregulated company:

15-34 (1) retains the obligations of a provider of last
 15-35 resort under Chapter 54;

15-36 (2) is subject to the following provisions in the same
 15-37 manner as an incumbent local exchange company that is not
 15-38 deregulated:

15-39 (A) Sections 54.156, 54.158, and 54.159;

15-40 (B) Section 55.012; and

15-41 (C) Chapter 60; and

15-42 (3) may not increase the company's rates for
 15-43 stand-alone residential local exchange voice service before the
 15-44 date the commission order issued under Section 56.029(c) takes
 15-45 effect, regardless of whether the company is an electing company
 15-46 under Chapter 58.

15-47 (b) In each market, a deregulated company shall make
 15-48 available to all customers uniformly throughout that market the
 15-49 same price for all services and products. For the purposes of this
 15-50 subsection, the requirement for the same price for all services and
 15-51 products excludes promotional offers made to former customers in
 15-52 which the promotional price and terms have a duration of six months
 15-53 or less.

15-54 [Sections 65.103-65.150 reserved for expansion]

15-55 SUBCHAPTER D. TRANSITIONING COMPANY

15-56 Sec. 65.151. PROVISIONS APPLICABLE TO TRANSITIONING
 15-57 COMPANY. A transitioning company is governed by this subchapter
 15-58 and the provisions of this title that applied to the company
 15-59 immediately before the date the company was classified as a
 15-60 transitioning company. If there is a conflict between this chapter
 15-61 and the other applicable provisions of this title, this chapter
 15-62 controls.

15-63 Sec. 65.152. GENERAL REQUIREMENTS. (a) A transitioning
 15-64 company may:

15-65 (1) exercise pricing flexibility in a market in the
 15-66 manner provided by Section 58.063 one day after providing an
 15-67 informational notice as required by that section; and

15-68 (2) introduce a new service in a market in the manner
 15-69 provided by Section 58.153 one day after providing an informational

16-1 notice as required by that section.

16-2 (b) A transitioning company may not be required to comply
 16-3 with exchange-specific retail quality of service standards or
 16-4 reporting requirements in a market that is deregulated.

16-5 Sec. 65.153. RATE REQUIREMENTS. (a) In a market that
 16-6 remains regulated, a transitioning company shall price the
 16-7 company's retail services in accordance with the provisions that
 16-8 applied to that company immediately before the date the company was
 16-9 classified as a transitioning company.

16-10 (b) In a market that is deregulated, a transitioning company
 16-11 shall price the company's retail services as follows:

16-12 (1) for all services, other than basic local
 16-13 telecommunications service, at any price higher than the service's
 16-14 long run incremental cost; and

16-15 (2) for basic local telecommunications service, at any
 16-16 price higher than the lesser of the service's long run incremental
 16-17 cost or the tariffed price on the date that market was deregulated,
 16-18 provided that the company may not increase the company's rates for
 16-19 stand-alone residential local exchange voice service before the
 16-20 date the commission order issued under Section 56.029(c) takes
 16-21 effect, regardless of whether the company is an electing company
 16-22 under Chapter 58.

16-23 (c) In each deregulated market, a transitioning company
 16-24 shall make available to all customers uniformly throughout that
 16-25 market the same price for all services and products. For the
 16-26 purposes of this subsection, the requirement for the same price for
 16-27 all services and products excludes promotional offers made to
 16-28 former customers in which the promotional price and terms have a
 16-29 duration of six months or less.

16-30 (d) In any market, regardless of whether regulated or
 16-31 deregulated, the transitioning company may not:

16-32 (1) establish a retail rate, term, or condition that
 16-33 is anticompetitive or unreasonably preferential, prejudicial, or
 16-34 discriminatory;

16-35 (2) establish a retail rate that is subsidized either
 16-36 directly or indirectly by a regulated monopoly service or a service
 16-37 provided in an exchange that is not deregulated; or

16-38 (3) engage in predatory pricing or attempt to engage
 16-39 in predatory pricing.

16-40 [Sections 65.154-65.200 reserved for expansion]

16-41 SUBCHAPTER E. REDUCTION OF SWITCHED ACCESS RATES

16-42 Sec. 65.201. REDUCTION OF SWITCHED ACCESS RATES BY
 16-43 DEREGULATED COMPANY. (a) On the date the last market of an
 16-44 incumbent local exchange company is deregulated, the company shall
 16-45 reduce both the company's originating and terminating per minute of
 16-46 use switched access rates in each market to parity with the
 16-47 company's respective federal originating and terminating per
 16-48 minute of use switched access rates.

16-49 (b) After reducing the rates under Subsection (a), a
 16-50 deregulated company shall maintain parity with the company's
 16-51 federal originating and terminating per minute of use switched
 16-52 access rates. If the company's federal originating and terminating
 16-53 per minute of use switched access rates are changed, the company
 16-54 shall change the company's per minute of use switched access rates
 16-55 in each market as necessary to re-achieve parity with the company's
 16-56 federal originating and terminating per minute of use switched
 16-57 access rates.

16-58 Sec. 65.202. REDUCTION OF SWITCHED ACCESS RATES BY
 16-59 TRANSITIONING COMPANY WITH MORE THAN THREE MILLION ACCESS LINES.

16-60 (a) Notwithstanding any other provision of this title, a
 16-61 transitioning company that has more than three million access lines
 16-62 in service in this state on January 1, 2006, shall:

16-63 (1) on July 1, 2006, reduce both the company's
 16-64 originating and terminating per minute of use switched access rates
 16-65 in each market by an amount equal to 33 percent of the difference in
 16-66 the rates in effect on June 30, 2006, and the company's respective
 16-67 federal originating and terminating per minute of use switched
 16-68 access rates;

16-69 (2) on July 1, 2007, reduce both the company's

17-1 originating and terminating per minute of use switched access rates
 17-2 in each market by an amount equal to 33 percent of the difference in
 17-3 the rates in effect on June 30, 2006, and the company's respective
 17-4 federal originating and terminating per minute of use switched
 17-5 access rates; and

17-6 (3) on July 1, 2008, reduce both the company's
 17-7 originating and terminating per minute of use switched access rates
 17-8 in each market to parity with the company's respective federal
 17-9 originating and terminating per minute of use switched access
 17-10 rates.

17-11 (b) After reducing the rates under Subsection (a), a
 17-12 transitioning company shall maintain parity with the company's
 17-13 federal originating and terminating per minute of use switched
 17-14 access rates. If the company's federal originating and terminating
 17-15 per minute of use switched access rates are changed, the company
 17-16 shall change the company's per minute of use switched access rates
 17-17 in each market as necessary to re-achieve parity with the company's
 17-18 federal originating and terminating per minute of use switched
 17-19 access rates.

17-20 Sec. 65.203. REDUCTION OF SWITCHED ACCESS RATES BY CERTAIN
 17-21 TRANSITIONING COMPANIES WITH NOT MORE THAN THREE MILLION ACCESS
 17-22 LINES. (a) Notwithstanding any other provision of this title, a
 17-23 company that is classified as a transitioning company effective
 17-24 January 1, 2006, and that has not more than three million access
 17-25 lines in service in this state on that date shall reduce both the
 17-26 company's originating and terminating per minute of use switched
 17-27 access rates in each market in accordance with this section.

17-28 (b) On July 1, 2006, the transitioning company shall reduce
 17-29 both the company's originating and terminating per minute of use
 17-30 switched access rates in each market by an amount equal to the
 17-31 lesser of:

17-32 (1) 25 percent of the difference in the company's rates
 17-33 in effect on June 30, 2006, and the company's respective federal
 17-34 originating and terminating per minute of use switched access rates
 17-35 in effect on that date; or

17-36 (2) an amount derived by multiplying that difference
 17-37 by a percentage derived by dividing the number of the company's
 17-38 markets that are not regulated on July 1, 2006, by the total number
 17-39 of the company's markets on December 30, 2005.

17-40 (c) On July 1, 2007, the transitioning company shall reduce
 17-41 both the company's originating and terminating per minute of use
 17-42 switched access rates in each market by an amount equal to the
 17-43 lesser of:

17-44 (1) 25 percent of the difference in the company's rates
 17-45 in effect on June 30, 2006, and the company's respective federal
 17-46 originating and terminating per minute of use switched access rates
 17-47 in effect on that date; or

17-48 (2) an amount derived by multiplying that difference
 17-49 by a percentage derived by dividing the number of the company's
 17-50 markets that are not regulated on July 1, 2007, by the total number
 17-51 of the company's markets on December 30, 2005.

17-52 (d) On July 1, 2008, the transitioning company shall reduce
 17-53 both the company's originating and terminating per minute of use
 17-54 switched access rates in each market by an amount equal to the
 17-55 lesser of:

17-56 (1) 25 percent of the difference in the company's rates
 17-57 in effect on June 30, 2006, and the company's respective federal
 17-58 originating and terminating per minute of use switched access rates
 17-59 in effect on that date; or

17-60 (2) an amount derived by multiplying that difference
 17-61 by a percentage derived by dividing the number of the company's
 17-62 markets that are not regulated on July 1, 2008, by the total number
 17-63 of the company's markets on December 30, 2005.

17-64 (e) On July 1, 2009, the transitioning company shall reduce
 17-65 both the company's originating and terminating per minute of use
 17-66 switched access rates in each market to parity with the company's
 17-67 respective federal originating and terminating per minute of use
 17-68 switched access rates.

17-69 (f) After reducing the rates under Subsection (e), a

18-1 transitioning company shall maintain parity with the company's
 18-2 federal originating and terminating per minute of use switched
 18-3 access rates. If the company's federal originating and terminating
 18-4 per minute of use switched access rates are changed, the company
 18-5 shall change the company's per minute of use switched access rates
 18-6 in each market as necessary to re-achieve parity with the company's
 18-7 federal originating and terminating per minute of use switched
 18-8 access rates.

18-9 Sec. 65.204. REDUCTION OF SWITCHED ACCESS RATES BY NEWLY
 18-10 DESIGNATED TRANSITIONING COMPANY. (a) Notwithstanding any other
 18-11 provision of this title, a company that is classified as a
 18-12 transitioning company after January 1, 2006, shall reduce both the
 18-13 company's originating and terminating per minute of use switched
 18-14 access rates in each market in accordance with this section.

18-15 (b) On the date the company is classified as a transitioning
 18-16 company, the company shall reduce both the company's originating
 18-17 and terminating per minute of use switched access rates in each
 18-18 market by an amount equal to the lesser of:

18-19 (1) 25 percent of the difference in the company's rates
 18-20 in effect on the day before the date the company was classified, and
 18-21 the company's respective federal originating and terminating per
 18-22 minute of use switched access rates in effect on that date; or

18-23 (2) an amount derived by multiplying that difference
 18-24 by a percentage derived by dividing the number of the company's
 18-25 markets that are not regulated on the date the company is classified
 18-26 as a transitioning company by the total number of the company's
 18-27 markets on December 30, 2005.

18-28 (c) On the first anniversary of the date the company is
 18-29 classified as a transitioning company, the company shall reduce
 18-30 both the company's originating and terminating per minute of use
 18-31 switched access rates in each market by an amount equal to the
 18-32 lesser of:

18-33 (1) 25 percent of the difference in the company's rates
 18-34 in effect on the day before the date the company was classified, and
 18-35 the company's respective federal originating and terminating per
 18-36 minute of use switched access rates in effect on that date; or

18-37 (2) an amount derived by multiplying that difference
 18-38 by a percentage derived by dividing the number of the company's
 18-39 markets that are not regulated on the first anniversary of the date
 18-40 the company is classified as a transitioning company by the total
 18-41 number of the company's markets on December 30, 2005.

18-42 (d) On the second anniversary of the date the company is
 18-43 classified as a transitioning company, the company shall reduce
 18-44 both the company's originating and terminating per minute of use
 18-45 switched access rates in each market by an amount equal to the
 18-46 lesser of:

18-47 (1) 25 percent of the difference in the company's rates
 18-48 in effect on the day before the date the company was classified, and
 18-49 the company's respective federal originating and terminating per
 18-50 minute of use switched access rates in effect on that date; or

18-51 (2) an amount derived by multiplying that difference
 18-52 by a percentage derived by dividing the number of the company's
 18-53 markets that are not regulated on the second anniversary of the date
 18-54 the company is classified as a transitioning company by the total
 18-55 number of the company's markets on December 30, 2005.

18-56 (e) On the third anniversary of the date the company is
 18-57 classified as a transitioning company, the company shall reduce
 18-58 both the company's originating and terminating per minute of use
 18-59 switched access rates in each market to parity with the company's
 18-60 respective federal originating and terminating per minute of use
 18-61 switched access rates.

18-62 (f) After reducing the rates under Subsection (e), a
 18-63 transitioning company shall maintain parity with the company's
 18-64 federal originating and terminating per minute of use switched
 18-65 access rates. If the company's federal originating and terminating
 18-66 per minute of use switched access rates are changed, the company
 18-67 shall change the company's per minute of use switched access rates
 18-68 in each market as necessary to re-achieve parity with the company's
 18-69 federal originating and terminating per minute of use switched

19-1 access rates.

19-2 Sec. 65.205. MAINTENANCE OF REDUCTION OR PARITY.

19-3 (a) After a deregulated or transitioning company reduces the
 19-4 company's rates under this subchapter, the company may not increase
 19-5 those rates above the applicable rates prescribed by this
 19-6 subchapter.

19-7 (b) If a transitioning company's federal per minute of use
 19-8 switched access rates are reduced, the company shall reduce the
 19-9 company's per minute of use switched access rates to not more than
 19-10 the applicable rates prescribed by this subchapter.

19-11 (c) Notwithstanding Subsections (a) and (b), a deregulated
 19-12 or transitioning company may decrease the company's per minute of
 19-13 use switched access rates to amounts that are less than the
 19-14 applicable rates prescribed by this subchapter.

19-15 [Sections 65.206-65.250 reserved for expansion]

19-16 SUBCHAPTER F. LEGISLATIVE OVERSIGHT COMMITTEE

19-17 Sec. 65.251. OVERSIGHT COMMITTEE. (a) In this subchapter,
 19-18 "committee" means the telecommunications competitiveness
 19-19 legislative oversight committee.

19-20 (b) The committee is composed of nine members as follows:

19-21 (1) the chair of the Senate Committee on Business and
 19-22 Commerce;

19-23 (2) the chair of the House Committee on Regulated
 19-24 Industries;

19-25 (3) three members of the senate appointed by the
 19-26 lieutenant governor;

19-27 (4) three members of the house of representatives
 19-28 appointed by the speaker of the house of representatives; and

19-29 (5) the chief executive of the Office of Public
 19-30 Utility Counsel.

19-31 (c) An appointed member of the committee serves at the
 19-32 pleasure of the appointing official.

19-33 Sec. 65.252. COMMITTEE DUTIES. (a) The committee shall
 19-34 conduct joint public hearings with the commission at least annually
 19-35 regarding the introduction of full competition to
 19-36 telecommunications services in this state.

19-37 (b) The commission shall:

19-38 (1) collect and compile information from all
 19-39 telecommunications providers as necessary to conduct a hearing
 19-40 under this section; and

19-41 (2) maintain the confidentiality of information
 19-42 collected under this section that is claimed to be confidential for
 19-43 competitive purposes.

19-44 (c) Information that is claimed to be confidential under
 19-45 Subsection (b) is exempt from disclosure under Chapter 552,
 19-46 Government Code.

19-47 (d) The commission shall provide to the committee
 19-48 information regarding rules relating to telecommunications
 19-49 deregulation proposed by the commission. The committee may submit
 19-50 comments to the commission on those proposed rules.

19-51 (e) The committee shall monitor the effectiveness of
 19-52 telecommunications deregulation, including the fairness of rates,
 19-53 the quality of service, and the effect of regulation on the normal
 19-54 forces of competition.

19-55 (f) The committee may request reports and other information
 19-56 from the commission as necessary to carry out this subchapter.

19-57 (g) Not later than November 15 of each even-numbered year,
 19-58 the committee shall report to the governor, lieutenant governor,
 19-59 and speaker of the house of representatives on the committee's
 19-60 activities under this subchapter. The report must include:

19-61 (1) an analysis of any problems caused by
 19-62 telecommunications deregulation; and

19-63 (2) recommendations for any legislative action
 19-64 necessary to address those problems and to further competition
 19-65 within the telecommunications industry.

19-66 SECTION 27. Subtitle C, Title 2, Utilities Code, is amended
 19-67 by adding Chapter 66 to read as follows:

19-68 CHAPTER 66. STATEWIDE CABLE AND VIDEO FRANCHISE

19-69 Sec. 66.001. STATEMENT OF STATE POLICY. (a) It is the

20-1 policy of this state to promote competition among providers of
20-2 cable and video services so that customers may benefit from
20-3 innovations in service quality and market-based pricing.

20-4 (b) The legislature finds that the Public Utility
20-5 Commission shall be designated as the franchising authority for a
20-6 statewide franchise.

20-7 SECTION 28. The following provisions of the Utilities Code
20-8 are repealed:

20-9 (1) Subsections (c) and (d), Section 57.048;

20-10 (2) Subchapters B through F, Chapter 62; and

20-11 (3) Chapters 61 and 63.

20-12 SECTION 29. If on August 31, 2005, the assessment
20-13 prescribed by Section 57.048, Utilities Code, is imposed at a rate
20-14 of less than 1.25 percent, the comptroller of public accounts
20-15 shall, on September 1, 2005, reset the rate of the assessment to
20-16 1.25 percent.

20-17 SECTION 30. This Act takes effect September 1, 2005, if it
20-18 receives a vote of two-thirds of all the members elected to each
20-19 house, as provided by Section 39, Article III, Texas Constitution.
20-20 If this Act does not receive the vote necessary for effect on that
20-21 date, this Act takes effect on the 91st day after the last day of the
20-22 legislative session.

20-23 * * * * *