

Amend CSHB 789 as follows:

(1) On page 21, lines 10 and 11, strike "was subject to this chapter on August 31, 2005" and substitute "is not regulated under Chapter 58 or 59".

(2) On page 31, strike lines 14-25 and substitute the following:

(c) A municipality or municipally owned [~~Notwithstanding Subsection (b)(1), a municipal~~] utility may not charge any entity, regardless of the nature of the services provided by that entity, a pole attachment rate or underground conduit rate that exceeds the fee the municipality or municipally owned utility would be permitted to charge under rules adopted by the Federal Communications Commission under 47 U.S.C. Section 224(e) if the municipality's or municipally owned utility's rates were regulated under federal law and the rules of the Federal Communications Commission. In addition, not later than September 1, 2006, a municipality or municipally owned utility shall charge a single, uniform pole attachment or underground conduit rate to all entities that are not affiliated with the municipality or municipally owned utility regardless of the services carried over the networks attached to the poles or underground conduit.

(3) On page 31, line 26, through page 32, line 27, strike SECTION 35 of the bill and renumber subsequent SECTIONS accordingly.

(4) On page 45, line 5, strike "provider of local exchange service" and substitute "provider of local exchange telephone service".

(5) On page 46, line 7, strike "~~(a)~~" and substitute "(a)".

(6) On page 46, strike lines 24-26 and substitute the following:

(b) [~~(c)~~] The company may impose a monthly fee against each of the company's local exchange service customers in this state. This fee is in addition to the company's local exchange rates.

(7) On page 54, lines 1-8, strike SECTION 66 of the bill and renumber subsequent SECTIONS accordingly.

(8) On page 55, line 6, strike "charges." and substitute "charges made after August 31, 2005.".

(9) On page 64, line 26 through page 66, line 7, strike SECTION 84 of the bill and renumber subsequent SECTIONS accordingly.

(10) Add the following appropriately numbered SECTION to read as follows and renumber subsequent SECTIONS accordingly:

SECTION ____ . Section 58.002, Utilities Code, is amended to read as follows:

Sec. 58.002. ELECTION [~~DEFINITION~~]. (a) In this section, "good cause" includes only matters beyond the control of the company.

(b) An incumbent local exchange company may elect to be subject to this chapter by notifying the commission in writing of its election.

(c) The commission may allow an electing company to withdraw the company's election under this chapter:

(1) on application by the company; and

(2) only for good cause [~~In this chapter, "electing company" means an incumbent local exchange company that elects to be subject to incentive regulation and to make the corresponding infrastructure commitment under this chapter~~].

(11) On page 70, between lines 19 and 20, insert the following:

(21) Subchapter G of this chapter;

(12) On page 70, lines 20 and 21, renumber the subdivisions appropriately.

(13) On page 70, lines 26 and 27, strike "was subject to this chapter on August 31, 2005" and substitute "is subject to this chapter".

(14) Insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION ____ . Section 58.253(a), Utilities Code, as amended by Chapters 959, 1220, 1255, and 1350, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(a) On customer request, an electing company shall provide private network services to:

(1) an educational institution;

(2) a library as defined in Section 57.042(6)(A) and

(B);

(3) a nonprofit telemedicine center;

(4) a public or not-for-profit hospital; or

(5) ~~[a project funded by the telecommunications infrastructure fund under Subchapter C, Chapter 57, except for a telepharmacy system; or~~

~~[(6)]~~ a legally constituted consortium or group of entities listed in this subsection.

(15) On page 82, line 19, strike "minute of use" and substitute "minute of use, except that a company may not, in any event, be required to reduce its intrastate switched access rates on a combined originating and terminating basis by more than two cents for each minute of use".

(16) On page 82, line 24, strike "minute of use" and substitute "minute of use, except that a company may not, in any event, be required to reduce its intrastate switched access rates on a combined originating and terminating basis by more than four cents for each minute of use below the rate in effect on December 31, 2005".

(17) Insert the following appropriately numbered SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 59.002(1), Utilities Code, is amended to read as follows:

(1) "Electing company" means an incumbent local exchange company that elects to be subject to ~~[for an infrastructure commitment and corresponding regulation under]~~ this chapter.

SECTION _____. Section 59.021(a), Utilities Code, is amended to read as follows:

(a) An incumbent local exchange company may elect to ~~[make an infrastructure commitment and to]~~ be subject to ~~[corresponding regulation under]~~ this chapter if the company:

(1) serves less than five percent of the access lines in this state; and

(2) has not elected incentive regulation under Chapter 58.

(18) On page 84, lines 3 and 4, strike "was subject to this

chapter on August 31, 2005" and substitute "is subject to this chapter".

(19) On page 88, line 11, after "practices.", insert the following:

The code of conduct must apply to all providers on an equal and nondiscriminatory basis and may not address any matter that is contained in or relates to an agreement for interconnection.

(20) On page 96, line 20, strike "customer information." and substitute "customer information, except that the rules may not provide for the payment of compensation for the preparation and transfer of files from a service order system to be used in the creation of 911 call routing data and 911 automatic location identification data.".

(21) Insert the following appropriately numbered SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION ____ . Section 60.164, Utilities Code, is amended to read as follows:

Sec. 60.164. PERMISSIBLE JOINT MARKETING. The [~~Except as prescribed in Chapters 61, 62, and 63, the~~] commission may not adopt any rule or order that would prohibit a local exchange company from jointly marketing or selling its products and services with the products and services of any of its affiliates in any manner permitted by federal law or applicable rules or orders of the Federal Communications Commission.

SECTION ____ . Section 60.165, Utilities Code, is amended to read as follows:

Sec. 60.165. AFFILIATE RULE. The [~~Except as prescribed in Chapters 61, 62, and 63, the~~] commission may not adopt any rule or order that would prescribe for any local exchange company any affiliate rule, including any accounting rule, any cost allocation rule, or any structural separation rule, that is more burdensome than federal law or applicable rules or orders of the Federal Communications Commission. Notwithstanding any other provision in this title, the commission may not attribute or impute to a local exchange company a price discount offered by an affiliate of the local exchange company to the affiliate's customers. This section does not limit the authority of the commission to consider a

complaint brought under Subchapter A, Chapter 52, Section 53.003, or this chapter.

(22) On page 103, line 12 through page 107, line 5, strike SECTION 135 of the bill and renumber subsequent SECTIONS accordingly.

(23) On page 110, line 17, strike Subdivision (43) and renumber subsequent subdivisions accordingly.

(24) On page 110, line 23, strike "Sections 58.002-58.022" and substitute "Sections 58.003-58.022".

(25) On page 110, line 27, strike "Subchapters F and G" and substitute "Subchapter F".

(26) On page 110, after line 27, insert the following appropriately numbered subdivision:

() Section 59.023(b);

(27) On page 111, line 12, strike "Sections 60.162-60.165" and substitute "Sections 60.162 and 60.163".

(28) On page 111, line 21, strike "June 1" and substitute "September 1".