

1-1 By: King of Parker, Edwards (Senate Sponsor-Fraser) H.B. No. 789
1-2 (In the Senate - Received from the House March 30, 2005;
1-3 April 5, 2005, read first time and referred to Committee on
1-4 Business and Commerce; May 21, 2005, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 9,
1-6 Nays 0; May 21, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 789 By: Fraser

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to furthering competition in the telecommunications
1-11 industry.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 52.155, Utilities Code, is amended by
1-14 amending Subsection (a) and adding Subsection (c) to read as
1-15 follows:

1-16 (a) A telecommunications utility that holds a certificate
1-17 of operating authority or a service provider certificate of
1-18 operating authority may not charge a higher amount for originating
1-19 or terminating intrastate switched access than the prevailing rates
1-20 charged by the holder of the certificate of convenience and
1-21 necessity or the holder of a certificate of operating authority
1-22 issued under Chapter 65 in whose territory the call originated or
1-23 terminated unless:

1-24 (1) the commission specifically approves the higher
1-25 rate; or

1-26 (2) subject to commission review, the
1-27 telecommunications utility establishes statewide average composite
1-28 originating and terminating intrastate switched access rates based
1-29 on a reasonable approximation of traffic originating and
1-30 terminating between all holders of certificates of convenience and
1-31 necessity in this state.

1-32 (c) Notwithstanding Subsection (a), Chapter 65 governs the
1-33 switched access rates of a company that holds a certificate of
1-34 operating authority issued under Chapter 65.

1-35 SECTION 2. Subchapter D, Chapter 52, Utilities Code, is
1-36 amended by adding Section 52.156 to read as follows:

1-37 Sec. 52.156. RETAIL RATES, TERMS, AND CONDITIONS. A
1-38 telecommunications utility may not:

1-39 (1) establish a retail rate, term, or condition that
1-40 is anticompetitive or unreasonably preferential, prejudicial, or
1-41 discriminatory; or

1-42 (2) engage in predatory pricing or attempt to engage
1-43 in predatory pricing.

1-44 SECTION 3. Section 54.251, Utilities Code, is amended by
1-45 amending Subsection (b) and adding Subsection (c) to read as
1-46 follows:

1-47 (b) Except as specifically determined otherwise by the
1-48 commission under this subchapter or Subchapter G, the holder of a
1-49 certificate of convenience and necessity, or the holder of a
1-50 certificate of operating authority issued under Chapter 65, for an
1-51 area has the obligations of a provider of last resort regardless of
1-52 whether another provider has a certificate of operating authority
1-53 or service provider certificate of operating authority for that
1-54 area.

1-55 (c) A certificate holder may meet the holder's provider of
1-56 last resort obligations using any available technology.
1-57 Notwithstanding any provision of Chapter 56, the commission may
1-58 adjust disbursements from the universal service fund to companies
1-59 using technologies other than traditional wireline or landline
1-60 technologies to meet provider of last resort obligations. As
1-61 determined by the commission, the certificate holder shall meet
1-62 minimum quality of service standards comparable to those
1-63 established for traditional wireline or landline technologies.

2-1 SECTION 4. Subchapter G, Chapter 54, Utilities Code, is
 2-2 amended by adding Section 54.3015 to read as follows:

2-3 Sec. 54.3015. APPLICABILITY OF SUBCHAPTER. This subchapter
 2-4 applies to a holder of a certificate of operating authority issued
 2-5 under Chapter 65 in the same manner and to the same extent this
 2-6 subchapter applies to a holder of a certificate of convenience and
 2-7 necessity.

2-8 SECTION 5. Subchapter H, Chapter 55, Utilities Code, is
 2-9 amended by adding Section 55.1735 to read as follows:

2-10 Sec. 55.1735. CHARGE FOR PAY PHONE ACCESS LINE. The charge
 2-11 or surcharge a local exchange company imposes for an access line
 2-12 used to provide pay telephone service in an exchange may not exceed
 2-13 the amount of the charge or surcharge the company imposes for an
 2-14 access line used for regular business purposes in that exchange.

2-15 SECTION 6. Section 56.025, Utilities Code, is amended by
 2-16 adding Subsection (g) to read as follows:

2-17 (g) This section expires August 31, 2007.

2-18 SECTION 7. Section 56.026, Utilities Code, is amended by
 2-19 adding Subsection (e) to read as follows:

2-20 (e) This subsection and Subsections (c) and (d) expire
 2-21 August 31, 2007.

2-22 SECTION 8. Subchapter B, Chapter 56, Utilities Code, is
 2-23 amended by adding Sections 56.029 and 56.030 to read as follows:

2-24 Sec. 56.029. COMMISSION REVIEW AND EVALUATION OF SUPPORT
 2-25 AMOUNTS; ORDER. (a) On or before October 1, 2005, the commission
 2-26 shall initiate a review and evaluation of the monthly per line
 2-27 support amounts available from the Texas High Cost Universal
 2-28 Service Plan and from the Small and Rural Incumbent Local Exchange
 2-29 Company Universal Service Plan.

2-30 (b) The review and evaluation must include the commission's
 2-31 determination of appropriate monthly per line support amounts to be
 2-32 made available from the Texas High Cost Universal Service Plan and
 2-33 from the Small and Rural Incumbent Local Exchange Company Universal
 2-34 Service Plan. The commission shall conduct necessary proceedings
 2-35 to determine the appropriate monthly per line support amounts to be
 2-36 made available from those plans and the appropriate costs and
 2-37 revenues to be used to compute those amounts.

2-38 (c) On or before November 15, 2006, the commission shall
 2-39 issue an order establishing the appropriate monthly per line
 2-40 support amounts to be made available from the Texas High Cost
 2-41 Universal Service Plan and from the Small and Rural Incumbent Local
 2-42 Exchange Company Universal Service Plan. The order takes effect
 2-43 September 1, 2007. The commission shall deliver the order to the
 2-44 lieutenant governor and the speaker of the house of representatives
 2-45 on the date the commission issues the order.

2-46 (d) The commission may revise the monthly per line support
 2-47 amounts to be made available from the Texas High Cost Universal
 2-48 Service Plan and from the Small and Rural Incumbent Local Exchange
 2-49 Company Universal Service Plan at any time after September 1, 2007,
 2-50 after notice and an opportunity for hearing.

2-51 (e) This subsection and Subsections (a), (b), and (c) expire
 2-52 September 1, 2007.

2-53 Sec. 56.030. AFFIDAVITS OF COMPLIANCE. On or before
 2-54 September 1 of each year, a telecommunications provider that
 2-55 receives disbursements from the universal service fund shall file
 2-56 with the commission an affidavit certifying that the
 2-57 telecommunications provider is in compliance with the requirements
 2-58 for receiving money from the universal service fund and
 2-59 requirements regarding the use of money from each universal service
 2-60 fund program for which the telecommunications provider receives
 2-61 disbursements.

2-62 SECTION 9. Section 57.048, Utilities Code, is amended by
 2-63 adding Subsections (f)-(i) to read as follows:

2-64 (f) Notwithstanding any other provision of this title, a
 2-65 certificated telecommunications utility may recover from the
 2-66 utility's customers an assessment imposed on the utility under this
 2-67 subchapter after the total amount deposited to the credit of the
 2-68 fund, excluding interest and loan repayments, is equal to \$1.5
 2-69 billion, as determined by the comptroller. A certificated

3-1 telecommunications utility may recover only the amount of the
 3-2 assessment imposed after the total amount deposited to the credit
 3-3 of the fund, excluding interest and loan repayments, is equal to
 3-4 \$1.5 billion, as determined by the comptroller. The utility may
 3-5 recover the assessment through a monthly billing process.

3-6 (g) The comptroller shall publish in the Texas Register the
 3-7 date on which the total amount deposited to the credit of the fund,
 3-8 excluding interest and loan repayments, is equal to \$1.5 billion.

3-9 (h) Not later than February 15 of each year, a certificated
 3-10 telecommunications utility that wants to recover the assessment
 3-11 under Subsection (f) shall file with the commission an affidavit or
 3-12 affirmation stating the amount that the utility paid to the
 3-13 comptroller under this section during the previous calendar year
 3-14 and the amount the utility recovered from its customers in
 3-15 cumulative payments during that year.

3-16 (i) The commission shall maintain the confidentiality of
 3-17 information the commission receives under this section that is
 3-18 claimed to be confidential for competitive purposes. The
 3-19 confidential information is exempt from disclosure under Chapter
 3-20 552, Government Code.

3-21 SECTION 10. Section 57.051, Utilities Code, is amended to
 3-22 read as follows:

3-23 Sec. 57.051. SUNSET PROVISION. The Telecommunications
 3-24 Intrastructure Fund [~~Board~~] is subject to Chapter 325, Government
 3-25 Code (Texas Sunset Act). Unless continued in existence as provided
 3-26 by that chapter, [~~the board is abolished and~~] this subchapter
 3-27 expires September 1, 2011 [~~2005~~].

3-28 SECTION 11. Section 58.258(a), Utilities Code, is amended
 3-29 to read as follows:

3-30 (a) Notwithstanding the pricing flexibility authorized by
 3-31 this subtitle, an electing company's rates for private network
 3-32 services may not be increased [~~on or~~] before January 1, 2012 [~~the~~
 3-33 sixth anniversary of the company's date of election]. However, an
 3-34 electing company may increase a rate in accordance with the
 3-35 provisions of a customer specific contract.

3-36 SECTION 12. Subchapter G, Chapter 58, Utilities Code, is
 3-37 amended by adding Section 58.268 to read as follows:

3-38 Sec. 58.268. CONTINUATION OF OBLIGATION. Notwithstanding
 3-39 any other provision of this title, an electing company shall
 3-40 continue to comply with this subchapter until January 1, 2012,
 3-41 regardless of:

3-42 (1) the date the company elected under this chapter;
 3-43 or
 3-44 (2) any action taken in relation to that company under
 3-45 Chapter 65.

3-46 SECTION 13. Section 59.077(a), Utilities Code, is amended
 3-47 to read as follows:

3-48 (a) Notwithstanding the pricing flexibility authorized by
 3-49 this subtitle, an electing company's rates for private network
 3-50 services may not be increased [~~on or~~] before January 1, 2012 [~~the~~
 3-51 sixth anniversary of the company's election date].

3-52 SECTION 14. Subchapter D, Chapter 59, Utilities Code, is
 3-53 amended by adding Section 59.083 to read as follows:

3-54 Sec. 59.083. CONTINUATION OF OBLIGATION. Notwithstanding
 3-55 any other provision of this title, an electing company shall
 3-56 continue to comply with this subchapter until January 1, 2012,
 3-57 regardless of:

3-58 (1) the date the company elected under this chapter;
 3-59 or
 3-60 (2) any action taken in relation to that company under
 3-61 Chapter 65.

3-62 SECTION 15. Chapter 60, Utilities Code, is amended by
 3-63 adding Subchapter J to read as follows:

3-64 SUBCHAPTER J. WHOLESALE CODE OF CONDUCT

3-65 Sec. 60.201. STATEMENT OF POLICY. It is the policy of this
 3-66 state that providers of telecommunications services operate in a
 3-67 manner that is consistent with minimum standards to provide
 3-68 customers with continued competitive choices.

3-69 Sec. 60.202. APPLICABILITY OF SUBCHAPTER. A provision of

4-1 this subchapter applies only to the extent the provision has not
 4-2 been preempted by federal law or a rule, regulation, or order of the
 4-3 Federal Communications Commission.

4-4 Sec. 60.203. MINIMUM SERVICE REQUIREMENTS. A
 4-5 telecommunications provider may not unreasonably:

4-6 (1) discriminate against another provider by refusing
 4-7 access to an exchange;

4-8 (2) refuse or delay an interconnection to another
 4-9 provider;

4-10 (3) degrade the quality of access the
 4-11 telecommunications provider provides to another provider;

4-12 (4) impair the speed, quality, or efficiency of a line
 4-13 used by another provider;

4-14 (5) fail to fully disclose in a timely manner on
 4-15 request all available information necessary to design equipment
 4-16 that will meet the specifications of the network; or

4-17 (6) refuse or delay access by a person to another
 4-18 provider.

4-19 Sec. 60.204. INTERCONNECTION. (a) A telecommunications
 4-20 provider shall provide interconnection with other
 4-21 telecommunications providers' networks for the transmission and
 4-22 routing of telephone exchange service and exchange access.

4-23 (b) A telecommunications provider shall provide the
 4-24 interconnection at any technically feasible point within the
 4-25 provider's network and at rates, terms, and conditions that are
 4-26 just, reasonable, and nondiscriminatory. The quality of the
 4-27 interconnection must be at least equal to the quality of the
 4-28 interconnection provided to itself, a subsidiary or affiliate of
 4-29 the provider, or any other party to which the provider provides
 4-30 interconnection.

4-31 Sec. 60.205. NUMBER PORTABILITY. A telecommunications
 4-32 provider shall provide number portability in accordance with
 4-33 federal requirements.

4-34 Sec. 60.206. DUTY TO NEGOTIATE. A telecommunications
 4-35 provider shall negotiate in good faith the terms and conditions of
 4-36 any agreement.

4-37 Sec. 60.207. DIALING PARITY. (a) A telecommunications
 4-38 provider shall provide dialing parity to competing
 4-39 telecommunications providers of telephone exchange service and
 4-40 telephone toll service.

4-41 (b) A telecommunications provider shall provide
 4-42 nondiscriminatory access to telephone numbers, operator services,
 4-43 directory assistance, and directory listings and may not delay that
 4-44 access unreasonably.

4-45 Sec. 60.208. ACCESS TO RIGHTS-OF-WAY. A telecommunications
 4-46 provider shall provide access to poles, ducts, conduits, and
 4-47 rights-of-way to competing providers of telecommunications service
 4-48 on rates, terms, and conditions that are just, reasonable, and
 4-49 nondiscriminatory.

4-50 Sec. 60.209. RECIPROCAL COMPENSATION. A
 4-51 telecommunications provider shall establish reciprocal
 4-52 compensation arrangements for the transport and termination of
 4-53 telecommunications.

4-54 Sec. 60.210. ACCESS TO SERVICES. A telecommunications
 4-55 provider shall provide access to:

4-56 (1) 911 and E-911 service;

4-57 (2) directory assistance service to allow other
 4-58 telecommunications providers' customers to obtain telephone
 4-59 numbers; and

4-60 (3) operator call completion service.

4-61 SECTION 16. Subchapter A, Chapter 62, Utilities Code, is
 4-62 amended by adding Section 62.003 to read as follows:

4-63 Sec. 62.003. REQUIREMENTS RELATING TO AUDIO AND VIDEO
 4-64 PROGRAMMING. (a) This section applies only to a provider of
 4-65 advanced services or local exchange telephone service that has more
 4-66 than 500,000 access lines in service in this state and that delivers
 4-67 audio or video programming to its subscribers.

4-68 (b) Notwithstanding any other provision of this title, a
 4-69 provider of advanced services or local exchange telephone service

5-1 shall provide subscribers access to the signals of the local
5-2 broadcast television and radio stations licensed by the Federal
5-3 Communications Commission to serve those subscribers over the air.

5-4 (c) To facilitate access by subscribers of a provider of
5-5 advanced services or local exchange telephone service to the
5-6 signals of local broadcast stations, a station either shall be
5-7 granted mandatory carriage or may request retransmission consent
5-8 with the provider.

5-9 (d) This title does not require a provider of advanced
5-10 services or local exchange telephone service to provide a
5-11 television or radio station valuable consideration in exchange for
5-12 carriage.

5-13 (e) A provider of advanced services or local exchange
5-14 telephone service shall transmit without degradation the signals a
5-15 local broadcast station delivers to the provider. The transmission
5-16 quality offered a broadcast station may not be lower than the
5-17 quality made available to another broadcast station or video or
5-18 audio programming source.

5-19 (f) A provider of advanced services or local exchange
5-20 telephone service that delivers audio or video programming to its
5-21 subscribers may not:

5-22 (1) discriminate among programming providers
5-23 regarding transmission of their signals;

5-24 (2) delete, change, or alter a copyright
5-25 identification transmitted as part of their signals; or

5-26 (3) deliver substantially similar programming from a
5-27 broadcast station or other programmer outside a subscriber's
5-28 broadcast coverage area.

5-29 (g) A provider of advanced services or local exchange
5-30 telephone service that delivers audio or video programming to its
5-31 subscribers shall include all programming providers in a subscriber
5-32 programming guide that lists program schedules.

5-33 SECTION 17. Subtitle C, Title 2, Utilities Code, is amended
5-34 by adding Chapter 65 to read as follows:

5-35 CHAPTER 65. DEREGULATION OF CERTAIN INCUMBENT LOCAL EXCHANGE
5-36 COMPANY MARKETS

5-37 SUBCHAPTER A. GENERAL PROVISIONS

5-38 Sec. 65.001. STATEMENT OF POLICY. It is the policy of this
5-39 state to provide for full rate and service competition in the
5-40 telecommunications market of this state so that customers may
5-41 benefit from innovations in service quality and market-based
5-42 pricing.

5-43 Sec. 65.002. DEFINITIONS. In this chapter:

5-44 (1) "Deregulated company" means an incumbent local
5-45 exchange company for which all of the company's markets have been
5-46 deregulated.

5-47 (2) "Market" means an exchange in which an incumbent
5-48 local exchange company provides residential local exchange
5-49 telephone service.

5-50 (3) "Regulated company" means an incumbent local
5-51 exchange company for which none of the company's markets have been
5-52 deregulated.

5-53 (4) "Stand-alone residential local exchange voice
5-54 service" means:

5-55 (A) residential tone dialing service;

5-56 (B) services and functionalities supported under
5-57 the lifeline program;

5-58 (C) access for all residential end users to 911
5-59 service provided by a local authority and access to dual party relay
5-60 service;

5-61 (D) at the election of the incumbent local
5-62 exchange company, mandatory residential extended area service
5-63 arrangements, mandatory residential extended metropolitan service
5-64 or other mandatory residential toll-free calling arrangements,
5-65 mandatory expanded local calling service arrangements, or another
5-66 service that a company is required under a tariff to provide to a
5-67 customer who subscribes or may subscribe to basic network services;
5-68 and

5-69 (E) flat rate residential local exchange

6-1 telephone service delivered by landline, but only if the service is
 6-2 ordered and received independent of:

6-3 (i) a service classified as a nonbasic
 6-4 service under Section 58.151;

6-5 (ii) a package of services that includes a
 6-6 service classified as a nonbasic service under Section 58.151; or

6-7 (iii) another flat rate residential local
 6-8 exchange service delivered by landline.

6-9 (5) "Transitioning company" means an incumbent local
 6-10 exchange company for which at least one, but not all, of the
 6-11 company's markets has been deregulated.

6-12 Sec. 65.003. COMMISSION AUTHORITY. (a) Notwithstanding
 6-13 any other provisions of this title, the commission has authority to
 6-14 implement and enforce this chapter.

6-15 (b) The commission may adopt rules and conduct proceedings
 6-16 necessary to administer and enforce this chapter, including rules
 6-17 to determine whether a market should remain regulated, should be
 6-18 deregulated, or should be reregulated.

6-19 Sec. 65.004. INFORMATION. (a) The commission may collect
 6-20 and compile information from all telecommunications providers as
 6-21 necessary to implement and enforce this chapter.

6-22 (b) The commission shall maintain the confidentiality of
 6-23 information collected under this chapter that is claimed to be
 6-24 confidential for competitive purposes. Information that is claimed
 6-25 to be confidential is exempt from disclosure under Chapter 552,
 6-26 Government Code.

6-27 Sec. 65.005. CUSTOMER PROTECTION. This chapter does not
 6-28 affect a customer's right to complain to the commission regarding a
 6-29 telecommunications provider.

6-30 [Sections 65.006-65.050 reserved for expansion]

6-31 SUBCHAPTER B. DETERMINATION OF WHETHER MARKET SHOULD BE REGULATED

6-32 Sec. 65.051. MARKETS DEREGULATED. (a) Except as provided
 6-33 by Subsection (b), all markets of all incumbent local exchange
 6-34 companies are deregulated on January 1, 2006, unless the commission
 6-35 determines under Section 65.052(a) that a market or markets should
 6-36 remain regulated.

6-37 (b) A market of an incumbent local exchange company in which
 6-38 the population in the area included in the market is less than
 6-39 30,000 is deregulated on January 1, 2007, unless the commission
 6-40 determines under Section 65.052(f) that the market should remain
 6-41 regulated.

6-42 Sec. 65.052. DETERMINATION OF WHETHER A MARKET SHOULD
 6-43 REMAIN REGULATED. (a) Except as provided by Subsection (f), the
 6-44 commission shall:

6-45 (1) determine whether each market of an incumbent
 6-46 local exchange company should remain regulated on and after January
 6-47 1, 2006; and

6-48 (2) issue a final order classifying the company in
 6-49 accordance with this section effective January 1, 2006.

6-50 (b) In making a determination under Subsection (a), the
 6-51 commission may not determine that a market should remain regulated
 6-52 if:

6-53 (1) the population in the area included in the market
 6-54 is at least 100,000; or

6-55 (2) the population in the area included in the market
 6-56 is at least 30,000 but less than 100,000 and, in addition to the
 6-57 incumbent local exchange company, there are at least three
 6-58 competitors of which:

6-59 (A) at least one is a telecommunications provider
 6-60 that holds a certificate of operating authority or service provider
 6-61 certificate of operating authority and provides residential local
 6-62 exchange telephone service throughout the entire market;

6-63 (B) at least one is an entity providing
 6-64 residential telephone service throughout the market using
 6-65 facilities that the entity owns; and

6-66 (C) at least one is a provider in that market of
 6-67 commercial mobile service as defined by Section 332(d),
 6-68 Communications Act of 1934 (47 U.S.C. Section 151 et seq.), Federal
 6-69 Communications Commission rules, and the Omnibus Budget

7-1 Reconciliation Act of 1993 (Pub. L. No. 103-66), that is not
 7-2 affiliated with the incumbent local exchange company.

7-3 (c) The commission shall issue an order classifying an
 7-4 incumbent local exchange company as a deregulated company that is
 7-5 subject to Subchapter C if:

7-6 (1) the company does not have any markets in which the
 7-7 population in the area included in the market is less than 30,000;
 7-8 and

7-9 (2) the commission does not determine that a market of
 7-10 the company should remain regulated on and after January 1, 2006.

7-11 (d) Regardless of the population in the area included in an
 7-12 incumbent local exchange company's markets, the commission shall
 7-13 issue an order classifying the company as a transitioning company
 7-14 that is subject to Subchapter D if the commission determines that
 7-15 one or more, but not all, of the markets of the company should
 7-16 remain regulated on and after January 1, 2006.

7-17 (e) The commission shall issue an order classifying the
 7-18 company as a regulated company that is subject to the provisions of
 7-19 this title that applied to the company on September 1, 2005, if the
 7-20 commission determines that all of the markets of the company in
 7-21 which the population in each area included in the markets is at
 7-22 least 30,000 should remain regulated on and after January 1, 2006.
 7-23 This subsection does not affect the authority of a regulated
 7-24 company to elect under Chapter 58 or 59 after January 1, 2005, and
 7-25 to be regulated under the chapter under which the company elected.

7-26 (f) Not later than November 30, 2006, the commission shall
 7-27 determine whether a market of an incumbent local exchange company
 7-28 in which the population in the area included in the market is less
 7-29 than 30,000 should remain regulated on or after January 1, 2007.
 7-30 The commission by rule shall determine the market test to be applied
 7-31 in determining whether the market should remain regulated. If the
 7-32 commission does not determine that the market should remain
 7-33 regulated on or after January 1, 2007, and the deregulation of that
 7-34 market results in a transitioning or regulated company no longer
 7-35 meeting the definition of a transitioning or regulated company, as
 7-36 appropriate, the commission shall issue an order reclassifying the
 7-37 company appropriately.

7-38 Sec. 65.053. INCUMBENT LOCAL EXCHANGE COMPANY MARKETS. (a)
 7-39 Notwithstanding Section 65.052, an incumbent local exchange
 7-40 company may elect to have all of the company's markets remain
 7-41 regulated on and after January 1, 2006.

7-42 (b) To make an election under Subsection (a), an incumbent
 7-43 local exchange company must file an affidavit with the commission
 7-44 making that election not later than December 1, 2005.

7-45 (c) If an incumbent local exchange company makes an election
 7-46 under this section, the commission shall issue an order classifying
 7-47 the company as a regulated company that is subject to the provisions
 7-48 of this title that applied to the company on September 1, 2005.
 7-49 This subsection does not affect the authority of a regulated
 7-50 company to elect under Chapter 58 or 59 after January 1, 2005, and
 7-51 to be regulated under the chapter under which the company elected.

7-52 Sec. 65.054. PETITION FOR DEREGULATION. (a) After July 1,
 7-53 2007, a transitioning or regulated company may petition the
 7-54 commission to deregulate a market that the commission previously
 7-55 determined should remain regulated.

7-56 (b) If the commission deregulates a market under this
 7-57 section and the deregulation results in the transitioning or
 7-58 regulated company no longer meeting the definition of a
 7-59 transitioning or regulated company, as appropriate, the commission
 7-60 shall issue an order reclassifying the company appropriately.

7-61 Sec. 65.055. COMMISSION AUTHORITY TO REREGULATE CERTAIN
 7-62 MARKETS. (a) This section applies only to a market of an incumbent
 7-63 local exchange company in which the population in the area included
 7-64 in the market is less than 100,000.

7-65 (b) The commission, on its own motion or on a complaint that
 7-66 the commission considers to have merit, may determine that a market
 7-67 that was previously deregulated should again be subject to
 7-68 regulation.

7-69 (c) The commission by rule shall prescribe the procedures

8-1 and standards applicable to a determination under this section.

8-2 [Sections 65.056-65.100 reserved for expansion]

8-3 SUBCHAPTER C. DEREGULATED COMPANY

8-4 Sec. 65.101. ISSUANCE OF CERTIFICATE OF OPERATING
8-5 AUTHORITY. (a) A deregulated company may petition the commission
8-6 to relinquish the company's certificate of convenience and
8-7 necessity and receive a certificate of operating authority.

8-8 (b) The commission shall issue the deregulated company a
8-9 certificate of operating authority and rescind the deregulated
8-10 company's certificate of convenience and necessity if the
8-11 commission finds that all of the company's markets have been
8-12 deregulated under Subchapter B.

8-13 Sec. 65.102. REQUIREMENTS. (a) A deregulated company that
8-14 holds a certificate of operating authority issued under this
8-15 subchapter is a nondominant carrier governed in the same manner as a
8-16 holder of a certificate of operating authority issued under Chapter
8-17 54, except that the deregulated company:

8-18 (1) retains the obligations of a provider of last
8-19 resort under Chapter 54;

8-20 (2) is subject to the following provisions in the same
8-21 manner as an incumbent local exchange company that is not
8-22 deregulated:

8-23 (A) Sections 54.156, 54.158, and 54.159;

8-24 (B) Section 55.012; and

8-25 (C) Chapter 60; and

8-26 (3) may not increase the company's rates for
8-27 stand-alone residential local exchange voice service before the
8-28 date the commission order issued under Section 56.029(c) takes
8-29 effect, regardless of whether the company is an electing company
8-30 under Chapter 58.

8-31 (b) In each market, a deregulated company shall make
8-32 available to all customers uniformly throughout that market the
8-33 same price for all services and products.

8-34 [Sections 65.103-65.150 reserved for expansion]

8-35 SUBCHAPTER D. TRANSITIONING COMPANY

8-36 Sec. 65.151. PROVISIONS APPLICABLE TO TRANSITIONING
8-37 COMPANY. A transitioning company is governed by this subchapter
8-38 and the provisions of this title that applied to the company
8-39 immediately before the date the company was classified as a
8-40 transitioning company. If there is a conflict between this chapter
8-41 and the other applicable provisions of this title, this chapter
8-42 controls.

8-43 Sec. 65.152. GENERAL REQUIREMENTS. (a) A transitioning
8-44 company may:

8-45 (1) exercise pricing flexibility in a market in the
8-46 manner provided by Section 58.063 one day after providing an
8-47 informational notice as required by that section; and

8-48 (2) introduce a new service in a market in the manner
8-49 provided by Section 58.153 one day after providing an informational
8-50 notice as required by that section.

8-51 (b) A transitioning company may not be required to comply
8-52 with exchange-specific retail quality of service standards or
8-53 reporting requirements in a market that is deregulated.

8-54 Sec. 65.153. RATE REQUIREMENTS. (a) In a market that
8-55 remains regulated, a transitioning company shall price the
8-56 company's retail services in accordance with the provisions that
8-57 applied to that company immediately before the date the company was
8-58 classified as a transitioning company.

8-59 (b) In a market that is deregulated, a transitioning company
8-60 shall price the company's retail services as follows:

8-61 (1) for all services, other than basic local
8-62 telecommunications service, at any price higher than the service's
8-63 long run incremental cost; and

8-64 (2) for basic local telecommunications service, at any
8-65 price higher than the lesser of the service's long run incremental
8-66 cost or the tariffed price on the date that market was deregulated,
8-67 provided that the company may not increase the company's rates for
8-68 stand-alone residential local exchange voice service before the
8-69 date the commission order issued under Section 56.029(c) takes

9-1 effect, regardless of whether the company is an electing company
 9-2 under Chapter 58.

9-3 (c) In each deregulated market, a transitioning company
 9-4 shall make available to all customers uniformly throughout that
 9-5 market the same price for all services and products.

9-6 (d) In any market, regardless of whether regulated or
 9-7 deregulated, the transitioning company may not:

9-8 (1) establish a retail rate, term, or condition that
 9-9 is anticompetitive or unreasonably preferential, prejudicial, or
 9-10 discriminatory;

9-11 (2) establish a retail rate that is subsidized either
 9-12 directly or indirectly by a regulated monopoly service or a service
 9-13 provided in an exchange that is not deregulated; or

9-14 (3) engage in predatory pricing or attempt to engage
 9-15 in predatory pricing.

9-16 [Sections 65.154-65.200 reserved for expansion]

9-17 SUBCHAPTER E. REDUCTION OF SWITCHED ACCESS RATES

9-18 Sec. 65.201. REDUCTION OF SWITCHED ACCESS RATES BY
 9-19 DEREGULATED COMPANY. (a) On the date the last market of an
 9-20 incumbent local exchange company is deregulated, the company shall
 9-21 reduce both the company's originating and terminating per minute of
 9-22 use switched access rates in each market to parity with the
 9-23 company's respective local reciprocal compensation rates.

9-24 (b) After reducing the rates under Subsection (a), a
 9-25 deregulated company shall maintain parity with the company's local
 9-26 reciprocal compensation rates. If the company's local reciprocal
 9-27 compensation rates are changed, the company shall change the
 9-28 company's per minute of use switched access rates in each market as
 9-29 necessary to re-achieve parity with the company's local reciprocal
 9-30 compensation rates.

9-31 Sec. 65.202. REDUCTION OF SWITCHED ACCESS RATES BY
 9-32 TRANSITIONING COMPANY WITH MORE THAN THREE MILLION ACCESS LINES.
 9-33 Notwithstanding any other provision of this title, a transitioning
 9-34 company that has more than three million access lines in service in
 9-35 this state on January 1, 2006, shall:

9-36 (1) on July 1, 2006, reduce both the company's
 9-37 originating and terminating per minute of use switched access rates
 9-38 in each market by an amount equal to 50 percent of the difference in
 9-39 the rates in effect on June 30, 2006, and the company's respective
 9-40 federal originating and terminating per minute of use switched
 9-41 access rates; and

9-42 (2) on July 1, 2007, reduce both the company's
 9-43 originating and terminating per minute of use switched access rates
 9-44 in each market to parity with the company's respective federal
 9-45 originating and terminating per minute of use switched access
 9-46 rates.

9-47 Sec. 65.203. REDUCTION OF SWITCHED ACCESS RATES BY CERTAIN
 9-48 TRANSITIONING COMPANIES WITH NOT MORE THAN THREE MILLION ACCESS
 9-49 LINES. (a) Notwithstanding any other provision of this title, a
 9-50 company that is classified as a transitioning company effective
 9-51 January 1, 2006, and that has not more than three million access
 9-52 lines in service in this state on that date shall reduce both the
 9-53 company's originating and terminating per minute of use switched
 9-54 access rates in each market in accordance with this section.

9-55 (b) On July 1, 2006, the transitioning company shall reduce
 9-56 both the company's originating and terminating per minute of use
 9-57 switched access rates in each market by an amount equal to the
 9-58 lesser of:

9-59 (1) 25 percent of the difference in the company's rates
 9-60 in effect on June 30, 2006, and the company's respective federal
 9-61 originating and terminating per minute of use switched access rates
 9-62 in effect on that date; or

9-63 (2) an amount derived by multiplying that difference
 9-64 by a percentage derived by dividing the number of the company's
 9-65 markets that are not regulated on July 1, 2006, by the total number
 9-66 of the company's markets on December 30, 2005.

9-67 (c) On July 1, 2007, the transitioning company shall reduce
 9-68 both the company's originating and terminating per minute of use
 9-69 switched access rates in each market by an amount equal to the

10-1 lesser of:

10-2 (1) 25 percent of the difference in the company's rates
 10-3 in effect on June 30, 2006, and the company's respective federal
 10-4 originating and terminating per minute of use switched access rates
 10-5 in effect on that date; or

10-6 (2) an amount derived by multiplying that difference
 10-7 by a percentage derived by dividing the number of the company's
 10-8 markets that are not regulated on July 1, 2007, by the total number
 10-9 of the company's markets on December 30, 2005.

10-10 (d) On July 1, 2008, the transitioning company shall reduce
 10-11 both the company's originating and terminating per minute of use
 10-12 switched access rates in each market by an amount equal to the
 10-13 lesser of:

10-14 (1) 25 percent of the difference in the company's rates
 10-15 in effect on June 30, 2006, and the company's respective federal
 10-16 originating and terminating per minute of use switched access rates
 10-17 in effect on that date; or

10-18 (2) an amount derived by multiplying that difference
 10-19 by a percentage derived by dividing the number of the company's
 10-20 markets that are not regulated on July 1, 2008, by the total number
 10-21 of the company's markets on December 30, 2005.

10-22 (e) On July 1, 2009, the transitioning company shall reduce
 10-23 both the company's originating and terminating per minute of use
 10-24 switched access rates in each market to parity with the company's
 10-25 respective federal originating and terminating per minute of use
 10-26 switched access rates.

10-27 Sec. 65.204. REDUCTION OF SWITCHED ACCESS RATES BY NEWLY
 10-28 DESIGNATED TRANSITIONING COMPANY. (a) Notwithstanding any other
 10-29 provision of this title, a company that is classified as a
 10-30 transitioning company after January 1, 2006, shall reduce both the
 10-31 company's originating and terminating per minute of use switched
 10-32 access rates in each market in accordance with this section.

10-33 (b) On the date the company is classified as a transitioning
 10-34 company, the company shall reduce both the company's originating
 10-35 and terminating per minute of use switched access rates in each
 10-36 market by an amount equal to the lesser of:

10-37 (1) 25 percent of the difference in the company's rates
 10-38 in effect on the day before the date the company was classified, and
 10-39 the company's respective federal originating and terminating per
 10-40 minute of use switched access rates in effect on that date; or

10-41 (2) an amount derived by multiplying that difference
 10-42 by a percentage derived by dividing the number of the company's
 10-43 markets that are not regulated on the date the company is classified
 10-44 as a transitioning company by the total number of the company's
 10-45 markets on December 30, 2005.

10-46 (c) On the first anniversary of the date the company is
 10-47 classified as a transitioning company, the company shall reduce
 10-48 both the company's originating and terminating per minute of use
 10-49 switched access rates in each market by an amount equal to the
 10-50 lesser of:

10-51 (1) 25 percent of the difference in the company's rates
 10-52 in effect on the day before the date the company was classified, and
 10-53 the company's respective federal originating and terminating per
 10-54 minute of use switched access rates in effect on that date; or

10-55 (2) an amount derived by multiplying that difference
 10-56 by a percentage derived by dividing the number of the company's
 10-57 markets that are not regulated on the first anniversary of the date
 10-58 the company is classified as a transitioning company by the total
 10-59 number of the company's markets on December 30, 2005.

10-60 (d) On the second anniversary of the date the company is
 10-61 classified as a transitioning company, the company shall reduce
 10-62 both the company's originating and terminating per minute of use
 10-63 switched access rates in each market by an amount equal to the
 10-64 lesser of:

10-65 (1) 25 percent of the difference in the company's rates
 10-66 in effect on the day before the date the company was classified, and
 10-67 the company's respective federal originating and terminating per
 10-68 minute of use switched access rates in effect on that date; or

10-69 (2) an amount derived by multiplying that difference

11-1 by a percentage derived by dividing the number of the company's
 11-2 markets that are not regulated on the second anniversary of the date
 11-3 the company is classified as a transitioning company by the total
 11-4 number of the company's markets on December 30, 2005.

11-5 (e) On the third anniversary of the date the company is
 11-6 classified as a transitioning company, the company shall reduce
 11-7 both the company's originating and terminating per minute of use
 11-8 switched access rates in each market to parity with the company's
 11-9 respective federal originating and terminating per minute of use
 11-10 switched access rates.

11-11 Sec. 65.205. MAINTENANCE OF REDUCTION OR PARITY. (a) After
 11-12 a deregulated or transitioning company reduces the company's rates
 11-13 under this subchapter, the company may not increase those rates
 11-14 above the applicable rates prescribed by this subchapter.

11-15 (b) If a transitioning company's federal per minute of use
 11-16 switched access rates are reduced, the company shall reduce the
 11-17 company's per minute of use switched access rates to not more than
 11-18 the applicable rates prescribed by this subchapter.

11-19 (c) Notwithstanding Subsections (a) and (b), a deregulated
 11-20 or transitioning company may decrease the company's per minute of
 11-21 use switched access rates to amounts that are less than the
 11-22 applicable rates prescribed by this subchapter.

11-23 [Sections 65.206-65.250 reserved for expansion]

11-24 SUBCHAPTER F. LEGISLATIVE OVERSIGHT COMMITTEE

11-25 Sec. 65.251. OVERSIGHT COMMITTEE. (a) In this subchapter,
 11-26 "committee" means the telecommunications competitiveness
 11-27 legislative oversight committee.

11-28 (b) The committee is composed of nine members as follows:

11-29 (1) the chair of the Senate Committee on Business and
 11-30 Commerce;

11-31 (2) the chair of the House Committee on Regulated
 11-32 Industries;

11-33 (3) three members of the senate appointed by the
 11-34 lieutenant governor;

11-35 (4) three members of the house of representatives
 11-36 appointed by the speaker of the house of representatives; and

11-37 (5) the chief executive of the Office of Public
 11-38 Utility Counsel.

11-39 (c) An appointed member of the committee serves at the
 11-40 pleasure of the appointing official.

11-41 Sec. 65.252. COMMITTEE DUTIES. (a) The committee shall
 11-42 conduct joint public hearings with the commission at least annually
 11-43 regarding the introduction of full competition to
 11-44 telecommunications services in this state.

11-45 (b) The commission shall:

11-46 (1) collect and compile information from all
 11-47 telecommunications providers as necessary to conduct a hearing
 11-48 under this section; and

11-49 (2) maintain the confidentiality of information
 11-50 collected under this section that is claimed to be confidential for
 11-51 competitive purposes.

11-52 (c) Information that is claimed to be confidential under
 11-53 Subsection (b) is exempt from disclosure under Chapter 552,
 11-54 Government Code.

11-55 (d) The commission shall provide to the committee
 11-56 information regarding rules relating to telecommunications
 11-57 deregulation proposed by the commission. The committee may submit
 11-58 comments to the commission on those proposed rules.

11-59 (e) The committee shall monitor the effectiveness of
 11-60 telecommunications deregulation, including the fairness of rates,
 11-61 the quality of service, and the effect of regulation on the normal
 11-62 forces of competition.

11-63 (f) The committee may request reports and other information
 11-64 from the commission as necessary to carry out this subchapter.

11-65 (g) Not later than November 15 of each even-numbered year,
 11-66 the committee shall report to the governor, lieutenant governor,
 11-67 and speaker of the house of representatives on the committee's
 11-68 activities under this subchapter. The report must include:

11-69 (1) an analysis of any problems caused by

12-1 telecommunications deregulation; and
12-2 (2) recommendations for any legislative action
12-3 necessary to address those problems and to further competition
12-4 within the telecommunications industry.

12-5 SECTION 18. The following provisions of the Utilities Code
12-6 are repealed:

- 12-7 (1) Sections 57.048(c) and (d);
- 12-8 (2) Subchapters B-F, Chapter 62; and
- 12-9 (3) Chapters 61 and 63.

12-10 SECTION 19. If on August 31, 2005, the assessment
12-11 prescribed by Section 57.048, Utilities Code, is imposed at a rate
12-12 of less than 1.25 percent, the comptroller shall, on September 1,
12-13 2005, reset the rate of the assessment to 1.25 percent.

12-14 SECTION 20. This Act takes effect September 1, 2005.

12-15 * * * * *