

BILL ANALYSIS

C.S.H.B. 2835
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that the purpose of the Texas universal service fund is to ensure that rural areas that are more difficult and costly to serve have affordable basic local telephone rates. The parties report that, without this fund, many rural Texans would not have access to reliable and affordable basic telephone services.

The parties contend that the Public Utility Commission of Texas has made efforts in recent months to decrease, without legislative direction, the amount distributed from the fund and that there is concern that, as a result, the individuals living in those rural areas will see either a significant increase in the cost of service or reduced access to a robust and reliable telecommunications network. C.S.H.B. 2835 seeks to address those concerns.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2835 amends Sections 56.032(b), (c), (d), (e), (f), and (h), Utilities Code, as added by Chapter 535 (H.B. 2603), Acts of the 82nd Legislature, Regular Session, 2011, to authorize the Public Utility Commission of Texas (PUC) to revise the monthly support amounts to be made available to certain companies from the Small and Rural Incumbent Local Exchange Company Universal Service Plan by any mechanism, including support reductions resulting from rate rebalancing approved by the PUC, rather than only by revising the monthly per line support amounts. The bill requires the PUC to consider the adequacy of basic rates to support universal service in determining appropriate monthly support amounts, rather than monthly per line support amounts.

C.S.H.B. 2835 entitles a company that receives frozen monthly support amounts as prescribed by a final order issued by the PUC in the PUC's Docket No. 39643 to continue to receive that monthly support until the support is revised, rather than requiring the PUC, on the written request of a small or rural incumbent local exchange company that receives monthly per line support amounts, to disburse funds to the company in fixed monthly amounts based on the company's annualized amount of recovery for the calendar year ending on December 31, 2010. The bill removes a provision authorizing a company to submit only one such request on or before December 31, 2011.

C.S.H.B. 2835 requires the PUC, for each small or rural incumbent local exchange company that is not receiving frozen support amounts, in addition to not being an electing company with respect to provisions relating to telecommunications incentive regulation and infrastructure plans, to annually set monthly support amounts based on the calculated annualized amount, and revises the formula for calculating that annualized amount.

C.S.H.B. 2835 requires the PUC, except for good cause, to establish monthly support amounts not later than the 60th day after the date the PUC determines the company is eligible. The bill postpones from September 1, 2013, to September 1, 2015, the expiration date of certain statutory provisions relating to procedures for requesting monthly support amounts under the Small and Rural Incumbent Local Exchange Company Universal Service Plan and related provisions. The bill repeals a provision relating to adjustments under the Texas High Cost Universal Service Plan.

C.S.H.B. 2835 repeals Section 3, Chapter 535 (H.B. 2603), Acts of the 82nd Legislature, Regular Session, 2011, which amended Section 56.031, Utilities Code.

EFFECTIVE DATE

August 31, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2835 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Effective January 1, 2014, Section 56.022, Utilities Code, is amended to read as follows:

Sec. 56.022. UNIFORM CHARGE. (a) In this section:

(1) "Lifeline service" has the meaning assigned by Section 55.015(e).

(2) "Voice over Internet Protocol service" has the meaning assigned by Section 51.002.

(3) "Working telephone number" does not include a telephone number used for network administration or for another purpose that is not related to providing end-user voice communication service.

(b) The universal service fund is funded by a statewide uniform charge assessed against [payable—by] each telecommunications provider and each Voice over Internet Protocol service provider that has access to the customer base. Each [(b)—A telecommunications] provider against whom the charge is assessed shall pay the charge in accordance with procedures approved by the commission.

(c) The uniform charge is assessed on each working telephone number, and each equivalent of a working telephone number, that has access to the public switched telephone network in an amount [services and at—rates] the commission determines. In determining the amount of [establishing] the charge [and the services to which the charge

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

~~will apply~~], the commission may not:

- (1) grant an unreasonable preference or advantage to a ~~[telecommunications]~~ provider against whom the charge may be assessed;
- (2) assess the charge on lifeline ~~[pay telephone]~~ service; or
- (3) subject a ~~[telecommunications]~~ provider against whom the charge may be assessed to unreasonable prejudice or disadvantage.

SECTION 2. Section 56.031, Utilities Code, as effective September 1, 2013, is amended to read as follows:

No equivalent provision.

Sec. 56.031. TEXAS HIGH COSTS UNIVERSAL SERVICE PLAN ADJUSTMENTS. (a) In this section:

(1) "Consumer price index" has the meaning assigned by Section 56.032.

(2) "Forward-looking common costs" means economic costs efficiently incurred in providing a group of services that cannot be attributed directly to an individual service.

(3) "Forward-looking economic cost" means the sum of total service long run incremental cost and a reasonable allocation of forward-looking common costs.

(4) "Total service long run incremental cost" means the average incremental cost over the long run based on the total demand for service using the existing locations of an incumbent local exchange company's switches that provide service to the exchange, measured by the use of the most efficient technology and engineering practices.

(b) Except as provided by Subsection (d), the [The] commission may revise the monthly per line support amounts to be made available from the Texas High Cost Universal Service Plan [and from the Small and Rural Incumbent Local Exchange Company Universal Service Plan at any time after September 1, 2007,] only after notice and an opportunity for a contested case hearing. The commission shall determine [In determining] appropriate monthly per line support amounts under this subsection for residential lines and business lines in each regulated exchange of an incumbent local exchange company based on the difference between forward-looking economic cost per line of providing basic local telecommunications service in that exchange and the statewide average revenue per line for that company [, the commission shall consider the adequacy of basic rates to support universal service].

(c) In computing forward-looking economic cost and statewide average revenue under Subsection (b), the commission shall:

(1) use a forward-looking economic cost model or methodology that:

(A) is capable of determining the cost to the incumbent local exchange company of providing basic local telecommunications service, including any mandatory extended area service, for existing residential and for existing business customer locations;

(B) reflects the territory being served; and

(C) uses items of information that reflect the scale and scope of the incumbent local exchange company; and

(2) determine the statewide average revenue per residential line and per business line for basic local telecommunications service, including any mandatory extended area service, provided in regulated exchanges that receive support under the Texas High Cost Universal Service Plan.

(d) The commission administratively may decrease a telecommunications provider's per line monthly support by an amount that does not exceed the estimated amount of increase in additional revenue the telecommunications provider would receive if the telecommunications provider's rates for flat rate residential local exchange telephone service in a regulated exchange that receives Texas High Cost Universal Service Plan support increased by a rate equal to the rate of increase in the consumer price index. The commission may not implement a decrease for a telecommunications provider under this subsection more than once in any 12-month period and must provide reasonable notice of the intended decrease. In estimating the amount of increase in additional revenue for purposes of this subsection, the commission must impute the increased rate for flat rate residential local exchange telephone service to all packages of the provider that include that type of service. This subsection does not apply to a telecommunications provider that on or before January 1, 2017, as provided by commission rule, elects not to seek or receive support from the Texas High Cost Universal Service Plan after January 1, 2017.

(e) The commission by rule may require a telecommunications provider to provide to the commission, after reasonable notice, any information necessary to determine the amount of a decrease under Subsection (d),

including rates and line counts.

(f) A telecommunications provider that disputes the accuracy of the commission's computation of a decrease in the telecommunications provider's per line monthly support under Subsection (d) may seek commission reconsideration and may seek judicial review of the decrease after that reconsideration is made or denied.

SECTION 3. Sections 56.032(f) and (h), Utilities Code, are amended to read as follows:

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 1. Sections 56.032(b), (c), (d), (e), (f), and (h), Utilities Code, as added by Chapter 535 (H.B. 2603), Acts of the 82nd Legislature, Regular Session, 2011, are amended to read as follows:

(b) Except as provided by Subsections ~~[(e),]~~ (d) and~~[(f),]~~ (e), ~~[and—(f),]~~ the commission may revise the monthly support amounts to be made available from the Small and Rural Incumbent Local Exchange Company Universal Service Plan by any mechanism, including support reductions resulting from rate rebalancing approved by the commission, ~~[by revising the monthly per line support amounts,]~~ after notice and an opportunity for hearing. In determining appropriate monthly ~~[per line]~~ support amounts, the commission shall consider the adequacy of basic rates to support universal service.

(c) A ~~[On the written request of a small or rural incumbent local exchange]~~ company that receives frozen monthly ~~[per line]~~ support amounts as prescribed by a final order issued by the commission in the commission's Docket No. 39643 is entitled to continue to receive that monthly support until the support is revised under Subsection (b)], ~~the commission shall disburse funds to the company in fixed monthly amounts based on the company's annualized amount of recovery for the calendar year ending on December 31, 2010. A company may submit only one request under this subsection and must submit the request on or before December 31, 2011].~~

(d) For each ~~[On the written request of a]~~ small or rural incumbent local exchange company that is not receiving frozen support amounts as described by Subsection (c) and is not an electing

company under Chapter 58 or 59, the commission annually shall set the company's monthly support amounts for the following 12 months by dividing by 12 the annualized support amount calculated under this subsection. The commission shall calculate the annualized amount:

(1) for the initial 12-month period for which a company makes an election under this subsection, by[=

~~[(A)] determining the annualized support amount received by the company as of January 1, 2013 [calculated for the requestor in the final order issued by the commission in Docket No. 18516; and~~

~~[(B) adjusting the support amount determined under Paragraph (A) at the beginning of each calendar year by a factor equal to the most recent consumer price index published at that time, beginning with the 1999 calendar year and ending in the year the company makes an election under this subsection]; and~~

(2) for ~~[the 12-month period following the initial period for which a company made an election under this subsection and for]~~ subsequent 12-month periods, by adjusting the most recent annualized support amount calculated by the commission by a factor equal to the percentage change in the consumer price index for the most recent 12-month period.

No equivalent provision.

(e) ~~The [If a company elects to receive monthly support amounts under Subsection (d), the]~~ commission, on its own motion or on the written request of the company, may initiate a proceeding to recalculate the most recent annualized support amount to be used as the basis for adjustment for a subsequent 12-month period under Subsection (d)(2). If, based on the recalculation, the commission by order adjusts a company's most recent annualized support amount, the adjusted support amount supersedes the annualized support amount calculated in accordance with Subsection (d).

(f) The commission shall administratively review requests filed under Subsection ~~[Subsections (e) and]~~ (d). Except for good cause, the commission shall approve the request not later than the 60th day after the date the commission determines the company

(f) ~~[The commission shall administratively review requests filed under Subsections (e) and (d).]~~ Except for good cause, the commission shall establish monthly support amounts under Subsection (d) ~~[approve the request]~~ not later than the

is eligible and has met all the procedural requirements under this subchapter.

(h) This section and any monthly support amount approved under this section expire on September 1, 2019 [2013].

SECTION 4. (a) Sections 56.032(b) and (c), Utilities Code, as added by Chapter 535 (H.B. 2603), Acts of the 82nd Legislature, Regular Session, 2011, are repealed.

(b) Section 3, Chapter 535 (H.B. 2603), Acts of the 82nd Legislature, Regular Session, 2011, which amended Section 56.031, Utilities Code, is repealed.

SECTION 5. The changes in law made by Section 56.022, Utilities Code, as amended by this Act, apply only on or after the effective date of that section. Universal service fund charges payable by a telecommunications provider on or before that date are governed by the law in effect immediately before the effective date of that section, and that law is continued in effect for that purpose.

SECTION 6. Except as otherwise provided by this Act, this Act takes effect August 31, 2013.

60th day after the date the commission determines the company is eligible [and has met all the procedural requirements under this subchapter].

(h) Subsections (a), (c), (d), (e), and (f) [This section] and any monthly support amount approved under those subsections [this section] expire [on] September 1, 2015 [2013].

No equivalent provision.

SECTION 2. Section 3, Chapter 535 (H.B. 2603), Acts of the 82nd Legislature, Regular Session, 2011, which amended Section 56.031, Utilities Code, is repealed

No equivalent provision.

SECTION 3. This Act takes effect August 31, 2013.