

By: Hilderbran

H.B. No. 3384

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the eligibility for and distributions of universal  
3 service funds.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 56.001, Utilities Code, is amended by  
6 adding Subdivisions (3) and (4) to read as follows:

7 (3) "Unsubsidized competitor" means a  
8 facilities-based provider of voice telephony service that does not  
9 receive support from a plan established under Section 56.021(1).

10 (4) "Voice telephony service" means a voice service  
11 that satisfies the requirements of 47 CFR 54.101.

12 SECTION 2. Section 56.021, Utilities Code, is amended to  
13 read as follows:

14 Sec. 56.021. UNIVERSAL SERVICE FUND ESTABLISHED. The  
15 commission shall adopt and enforce rules requiring local exchange  
16 companies to establish a universal service fund to:

17 (1) assist telecommunications providers in providing  
18 basic local telecommunications service at reasonable rates in high  
19 cost rural areas that are not served by an unsubsidized competitor  
20 under two plans:

21 (A) the Texas High Cost Universal Service Plan  
22 (16 T.A.C. Section 26.403); and

23 (B) the Small and Rural Incumbent Local Exchange  
24 Company Universal Service Plan (16 T.A.C. Section 26.404);

1           (2) reimburse the telecommunications carrier that  
2 provides the statewide telecommunications relay access service  
3 under Subchapter D;

4           (3) finance the specialized telecommunications  
5 assistance program established under Subchapter E;

6           (4) reimburse the department, the Department of  
7 Assistive and Rehabilitative Services [~~Texas Commission for the~~  
8 ~~Deaf and Hard of Hearing~~], and the commission for costs incurred in  
9 implementing this chapter [~~and Chapter 57~~];

10           (5) reimburse a telecommunications carrier providing  
11 lifeline service as provided by Section 55.015 [~~47 C.F.R. Part 54,~~  
12 ~~Subpart E, as amended~~];

13           (6) finance the implementation and administration of  
14 an integrated eligibility process created under Section 17.007 for  
15 customer service discounts relating to telecommunications  
16 services, including outreach expenses the commission determines  
17 are reasonable and necessary;

18           (7) reimburse a designated provider under Subchapter  
19 F;

20           (8) reimburse a successor utility under Subchapter G;  
21 and

22           (9) finance the program established under Subchapter  
23 H.

24           SECTION 3. Section 56.023(a), Utilities Code, is amended to  
25 read as follows:

26           (a) The commission shall:

27           (1) in a manner that assures reasonable rates for

1 basic local telecommunications service, adopt eligibility criteria  
2 and review procedures, including a method for administrative  
3 review, the commission finds necessary to fund the universal  
4 service fund and make distributions from that fund;

5 (2) determine which telecommunications providers meet  
6 the eligibility criteria;

7 (3) determine the amount of and approve a procedure  
8 for reimbursement to telecommunications providers of revenue lost  
9 in providing lifeline [~~tel-assistance~~] service under Section  
10 55.015 [~~Subchapter C~~];

11 (4) establish and collect fees from the universal  
12 service fund necessary to recover the costs the department and the  
13 commission incur in administering this chapter [~~and Chapter 57~~];  
14 and

15 (5) approve procedures for the collection and  
16 disbursement of the revenue of the universal service fund.

17 SECTION 4. Section 56.031, Utilities Code, as effective  
18 September 1, 2013, is amended to read as follows:

19 Sec. 56.031. ADJUSTMENTS: TEXAS HIGH COST UNIVERSAL SERVICE  
20 PLAN. The commission may revise the monthly per line support  
21 amounts to be made available from the Texas High Cost Universal  
22 Service Plan for an exchange of a local exchange company or  
23 cooperative that is not ineligible for support under Section  
24 56.0315 [~~and from the Small and Rural Incumbent Local Exchange~~  
25 ~~Company Universal Service Plan at any time after September 1,~~  
26 ~~2007,~~] after notice and an opportunity for hearing. In determining  
27 appropriate monthly per line support amounts, the commission shall

1 consider the adequacy of basic rates to support universal service.

2 SECTION 5. Subchapter B, Chapter 56, Utilities Code, is  
3 amended by adding Section 56.0315 to read as follows:

4 Sec. 56.0315. INELIGIBILITY FOR SUPPORT. (a) A local exchange  
5 company or cooperative that serves 31,000 or more access lines is  
6 not eligible to receive support from a plan established under  
7 Section 56.021(1) in an exchange in which 50 percent or more of the  
8 residents in the exchange are offered voice telephony service by  
9 one or more unsubsidized competitors.

10 (b) When the commission determines that an exchange is no  
11 longer eligible for support under Subsection (a), the commission  
12 shall withdraw support through a reasonable transition period of  
13 not more than three years.

14 (c) The commission shall conduct a contested case to  
15 determine the eligibility of an exchange for support under this  
16 section on receipt of a petition by an unsubsidized competitor who  
17 claims the exchange is ineligible for support under this section.

18 (d) This section does not apply to a local exchange company  
19 or cooperative that, before October 1, 2013, commits to the  
20 commission that the company or cooperative will eliminate the  
21 company's or cooperative's support from a plan established under  
22 Section 56.021(1) beginning January 1, 2017, or before that date.

23 SECTION 6. Sections 56.032(b), (c), (d), (e), (f), and (h),  
24 Utilities Code, as added by Chapter 535 (H.B. 2603), Acts of the  
25 82nd Legislature, Regular Session, 2011, are amended to read as  
26 follows:

27 (b) Except as provided by Subsections [~~(c)~~] (d), (e), and

1 (f), the commission may revise the monthly support amounts to be  
2 made available from the Small and Rural Incumbent Local Exchange  
3 Company Universal Service Plan [~~by revising the monthly per line~~  
4 ~~support amounts,~~] after notice and an opportunity for hearing. In  
5 determining appropriate monthly [~~per line~~] support amounts, the  
6 commission shall consider the adequacy of basic rates to support  
7 universal service.

8 (c) A company receiving a fixed monthly support amount  
9 prescribed in a final order issued by the commission in Docket No.  
10 39643 shall continue to receive that fixed support amount until the  
11 amount is revised under Subsection (b). [~~On the written request of a~~  
12 ~~small or rural incumbent local exchange company that receives~~  
13 ~~monthly per-line support amounts, the commission shall disburse~~  
14 ~~funds to the company in fixed monthly amounts based on the company's~~  
15 ~~annualized amount of recovery for the calendar year ending on~~  
16 ~~December 31, 2010. A company may submit only one request under this~~  
17 ~~subsection and must submit the request on or before December 31,~~  
18 ~~2011.~~]

19 (d) For each [~~On the written request of a~~] small or rural  
20 incumbent local exchange company that is not an electing company  
21 under Chapter 58 or 59, or receiving fixed support amounts  
22 described by Subsection (c), the commission annually shall set the  
23 company's monthly support amounts for the following 12 months by  
24 dividing by 12 the annualized support amount calculated under this  
25 subsection. The commission shall calculate the annualized amount:

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

1           [A] determining the annualized support amount  
2 received by the company as of January 1, 2013 [~~calculated for the~~  
3 ~~requestor in the final order issued by the commission in Docket No.~~  
4 ~~18516, and~~

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

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

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

25           (f) [~~The commission shall administratively review requests~~  
26 ~~filed under Subsections (c) and (d).~~] Except for good cause, the  
27 commission shall set monthly support amounts under Subsection (d)

1 ~~[approve the request]~~ not later than the 60th day after the date the  
2 commission determines the company is eligible ~~[and has met all the~~  
3 ~~procedural requirements under this subchapter]~~.

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

6 SECTION 7. (a) The Public Utility Commission of Texas  
7 immediately shall investigate the eligibility for support under  
8 Section 56.0315, Utilities Code, as added by this Act, of exchanges  
9 served by a local exchange company or cooperative and shall  
10 determine not later than October 1, 2013, whether to initiate, on  
11 the commission's own motion, one or more contested cases to  
12 determine the eligibility of exchanges served by a local exchange  
13 company or cooperative for support under Section 56.0315, Utilities  
14 Code, as added by this Act.

15 (b) The Public Utility Commission of Texas is required to  
16 conduct a contested case under Section 56.0315, Utilities Code, as  
17 added by this Act, only on receipt of a petition described by that  
18 section that is presented to the commission on or after July 1,  
19 2014.

20 SECTION 8. This Act takes effect August 31, 2013.