

AN ACT

relating to eligibility for support from the universal service fund.

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

SECTION 1. Section 56.023, Utilities Code, is amended by amending Subsection (b) and adding Subsections (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), and (q) to read as follows:

(b) The eligibility criteria must require that a telecommunications provider, in compliance with the commission's quality of service requirements:

(1) offer service to each consumer within an exchange in the company's certificated area for which the incumbent local exchange company receives support under a plan established under Section 56.021(1) and to any permanent residential or business premises to which the company is designated to provide services under Subchapter F; and

(2) render continuous and adequate service within an exchange in the company's certificated area for which the incumbent local exchange company receives support under a plan established under Section 56.021(1) and to any permanent residential or business premises to which the company is designated to provide services under Subchapter F.

(f) Except as provided by Subsection (g), for an incumbent local exchange company or cooperative that served greater than

1 31,000 access lines in this state on September 1, 2013, or a company
2 or cooperative that is a successor to such a company or cooperative,
3 the support that the company or cooperative is eligible to receive
4 on December 31, 2016, under a plan established under Section
5 56.021(1)(A) is reduced:

6 (1) on January 1, 2017, to 75 percent of the level of
7 support the company or cooperative is eligible to receive on
8 December 31, 2016;

9 (2) on January 1, 2018, to 50 percent of the level of
10 support the company or cooperative is eligible to receive on
11 December 31, 2016; and

12 (3) on January 1, 2019, to 25 percent of the level of
13 support the company or cooperative is eligible to receive on
14 December 31, 2016.

15 (g) After the commission has adopted rules under Subsection
16 (j), an incumbent local exchange company or cooperative that is
17 subject to Subsection (f) may petition the commission to initiate a
18 contested case proceeding as necessary to determine the eligibility
19 of the company or cooperative to receive support under a plan
20 established under Section 56.021(1)(A). A company or cooperative
21 may not file more than one petition under this subsection. On
22 receipt of a petition under this subsection, the commission shall
23 initiate a contested case proceeding to determine the eligibility
24 of the company or cooperative to receive continued support under a
25 plan established under Section 56.021(1)(A) for service in the
26 exchanges that are the subject of the petition. To be eligible to
27 receive support for service in an exchange under this subsection,

the company or cooperative must demonstrate that it has a financial need for continued support. The commission must issue a final order on the proceeding not later than the 330th day after the date the petition is filed with the commission. Until the commission issues a final order on the proceeding, the company or cooperative is entitled to receive the total amount of support the company or cooperative was eligible to receive on the date the company or cooperative filed the petition. A company or cooperative that files a petition under this subsection is not subject to Subsection (f) after the commission issues a final order on the proceeding. If the commission determines that a company or cooperative has demonstrated financial need for continued support under this subsection, it shall set the amount of support in the same proceeding. The amount of support set by the commission for an exchange under this subsection may not exceed:

(1) 100 percent of the amount of support that the company or cooperative will be eligible to receive on December 31, 2016, if the petition is filed before January 1, 2016;

(2) 75 percent of the amount of support that the company or cooperative will be eligible to receive on December 31, 2016, if the petition is filed on or after January 1, 2016, and before January 1, 2017;

(3) 50 percent of the amount of support the company or cooperative is eligible to receive on December 31, 2016, if the petition is filed on or after January 1, 2017, and before January 1, 2018; or

(4) 25 percent of the amount of support that the

company or cooperative is eligible to receive on December 31, 2016, if the petition is filed on or after January 1, 2018, and before January 1, 2019.

(h) Except as provided by Subsection (i), for an incumbent local exchange company that is an electing company under Chapter 58 or 59 or a cooperative that served greater than 31,000 access lines in this state on September 1, 2013, or a company or cooperative that is a successor to such a company or cooperative, the support that the company or cooperative is eligible to receive on December 31, 2017, under a plan established under Section 56.021(1)(B) is reduced:

(1) on January 1, 2018, to 75 percent of the level of support the company or cooperative is eligible to receive on December 31, 2017;

(2) on January 1, 2019, to 50 percent of the level of support the company or cooperative is eligible to receive on December 31, 2017; and

(3) on January 1, 2020, to 25 percent of the level of support the company or cooperative is eligible to receive on December 31, 2017.

(i) After the commission has adopted rules under Subsection (j), an incumbent local exchange company or cooperative that is subject to Subsection (h) may petition the commission to initiate a contested case proceeding as necessary to determine the eligibility of the company or cooperative to receive support under a plan established under Section 56.021(1)(B). A company or cooperative may not file more than one petition under this subsection. On

1 receipt of a petition under this subsection, the commission shall
2 initiate a contested case proceeding to determine the eligibility
3 of the company or cooperative to receive continued support under a
4 plan established under Section 56.021(1)(B) for service in the
5 exchanges that are the subject of the petition. To be eligible to
6 receive support for service in an exchange under this subsection,
7 the company or cooperative must demonstrate that it has a financial
8 need for continued support. The commission must issue a final order
9 on the proceeding no later than the 330th day after the date the
10 petition is filed with the commission. Until the commission issues
11 a final order on the proceeding, the company or cooperative shall
12 continue to receive the total amount of support it was eligible to
13 receive on the date the company or cooperative filed a petition
14 under this subsection. A company or cooperative that files a
15 petition under this subsection is not subject to Subsection (h)
16 after the commission issues a final order on the proceeding. If the
17 commission determines that a company or cooperative has
18 demonstrated financial need for continued support under this
19 subsection, it shall set the amount of support in the same
20 proceeding. The amount of support set by the commission for an
21 exchange under this subsection may not exceed:

22 (1) 100 percent of the amount of support that the
23 company or cooperative will be eligible to receive on December 31,
24 2017, if the petition is filed before January 1, 2017;

25 (2) 75 percent of the amount of support that the
26 company or cooperative will be eligible to receive on December 31,
27 2017, if the petition is filed on or after January 1, 2017, and

before January 1, 2018;

(3) 50 percent of the amount of support that the company or cooperative is eligible to receive on December 31, 2017, if the petition is filed on or after January 1, 2018, and before January 1, 2019; or

(4) 25 percent of the amount of support that the company or cooperative is eligible to receive on December 31, 2017, if the petition is filed on or after January 1, 2019, and before January 1, 2020.

(j) The commission by rule shall establish the standards and criteria for an incumbent local exchange company or cooperative to demonstrate under Subsection (g) or (i) that the company or cooperative has a financial need for continued support for residential and business lines under a plan established under Section 56.021(1).

(k) Subsections (g) and (i) do not authorize the commission to initiate a contested case hearing concerning a local exchange company that has elected to participate in a total support reduction plan under 16 T.A.C. Section 26.403 that requires the company to forego funding under a plan established under Section 56.021(1) after January 1, 2017. This section does not affect any obligation of a local exchange company subject to such a total support reduction plan.

(l) Subsections (f), (g), (h), and (i) do not apply to an incumbent local exchange company that elects, not later than March 1, 2014, to eliminate, not later than September 1, 2018, the support it receives under a plan established under Section 56.021(1).

(m) Nothing in this chapter relieves any party of an obligation entered into in the commission's Docket No. 40521.

(n) Nothing in this section is intended to affect the rate rebalancing proceeding in the commission's Docket No. 41097.

(o) Notwithstanding the provisions of this chapter, the commission has no authority, except as provided by Subsections (f), (g), (h), (i), (j), (k), (m), and (n) to reduce support provided to an incumbent local exchange company that is an electing company under Chapter 58 or 59 or is a cooperative that served greater than 31,000 access lines in this state on September 1, 2013:

(1) under a plan established under Section 56.021(1)(A) before January 1, 2019; or

(2) under a plan established under Section 56.021(1)(B) before January 1, 2020. This subsection expires on January 2, 2020.

(p) If an incumbent local exchange company or cooperative is ineligible for support under a plan established under Section 56.021(1) for services in an exchange, a plan established under Section 56.021(1) may not provide support to any other telecommunications providers for services in that exchange, except that an eligible telecommunications provider that is receiving support under Section 56.021(1)(A) in that exchange shall continue to receive such support for a 24-month period following the date the incumbent local exchange provider or cooperative ceases receiving support in that exchange. The support received by the eligible telecommunications provider during the 24-month period shall be at the same monthly per line support level in effect for that exchange

as of the date the incumbent local exchange provider or cooperative ceases receiving funding in that exchange.

(g) Notwithstanding the period for continued support specified by Subsection (p), if the eligible telecommunications provider receiving continued support under that subsection is a cooperative or an affiliate of a cooperative, the telecommunications provider is entitled to continued support through December 31, 2017, at the same monthly per-line support amount as the provider is receiving as of the date the support ceases for that exchange for the incumbent local exchange company or cooperative. Support authorized under this subsection ceases December 31, 2017.

SECTION 2. Section 56.024, Utilities Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) A report or information the commission requires a telecommunications provider to provide under Subsection (a) is confidential and not subject to disclosure under Chapter 552, Government Code.

(c) A telecommunications provider shall file with the commission the provider's annual earnings report if the provider:

(1) is not a local exchange company subject to a total support reduction plan under 16 T.A.C. Section 26.403 or that has made an election under Section 56.023(1);

(2) serves greater than 31,000 access lines; and

(3) receives support under a plan established under Section 56.021(1).

1 (d) A report filed under Subsection (c) is confidential and
2 not subject to disclosure under Chapter 552, Government Code.

3 SECTION 3. Section 56.025, Utilities Code, is amended by
4 amending Subsection (a) and adding Subsection (g) to read as
5 follows:

6 (a) In addition to the authority provided by Section 56.021:

7 (1) [7] for each local exchange company that serves
8 fewer than 31,000 access lines and each cooperative, the
9 commission[÷

10 [(-1)] may adopt a mechanism necessary to maintain
11 reasonable rates for local exchange telephone service; and

12 (2) for each local exchange company and each
13 cooperative that serves 31,000 or fewer access lines and that on
14 June 1, 2013, is not an electing company under Chapter 58 or 59, the
15 commission shall adopt rules to expand the universal service fund
16 in the circumstances prescribed by this section.

17 (g) Notwithstanding any other provision of this section,
18 after December 31, 2013, the commission may not distribute support
19 granted under this section, including any support granted before
20 that date, to a local exchange company or cooperative that serves
21 greater than 31,000 access lines or that is an electing company
22 under Chapter 58 or 59 on June 1, 2013.

23 SECTION 4. Section 56.026, Utilities Code, is amended to
24 read as follows:

25 Sec. 56.026. PROMPT AND EFFICIENT [UNIVERSAL SERVICE FUND]
26 DISBURSEMENTS. [(a) A revenue requirement showing is not required
27 for a disbursement from the universal service fund under this

~~subchapter.~~

~~[(b)]~~ The commission shall make each disbursement from the universal service fund promptly and efficiently so that a telecommunications provider does not experience an unnecessary cash-flow change as a result of a change in governmental policy.

SECTION 5. Subsections (b), (c), (d), (e), (f), and (h), Section 56.032, 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 ~~[(c),]~~ (d) and~~[,]~~ (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.

(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 Subsections (c) and (d).]~~ Except for good cause, the commission shall establish monthly support amounts under Subsection (d) ~~[approve the request]~~ not later than the 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, 2017 ~~[2013]~~.

SECTION 6. 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 7. The Public Utility Commission of Texas shall adopt rules under Subsection (j), Section 56.023, Utilities Code, as added by this Act, not later than December 1, 2014. The commission shall initiate the rulemaking proceeding not later than

1 January 1, 2014.

2 SECTION 8. This Act takes effect June 1, 2013, if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary to take effect on
6 that date, this Act takes effect on the 91st day after the last day
7 of the legislative session.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 583 passed the Senate on April 17, 2013, by the following vote: Yeas 30, Nays 1; and that the Senate concurred in House amendment on May 20, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 583 passed the House, with amendment, on May 15, 2013, by the following vote: Yeas 146, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor