

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 986  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Telecommunication markets have experienced extensive competition, especially from wireless and broadband-based voice services. As such, the test to determine competition in a market should be updated to reflect the proliferation of these technologies. The current competition standards assume that some providers will build their own wired phone networks, yet that business model is not as prevalent in the industry today as it was years ago. S.B. 986 seeks to update the competitive market test to reflect today's services.

Currently, Chapter 65 (Deregulation of Certain Incumbent Local Exchange Company Markets), Utilities Code, provides that telecommunication markets with populations greater than 100,000 are deemed competitive. In markets with populations between 30,000 to 100,000, the incumbent phone companies are required to prove the presence of competition with evidence that the market, or exchange, has at least one each of the following: one competitive local exchange carrier providing residential service as a "reseller" of the incumbent's network; one "facility-based" provider using its own facilities to provide service; and one wireless provider that is not affiliated with the incumbent provider.

S.B. 986 revises the competitive market test such that in markets with less than 100,000, the presence of two or more unaffiliated local voice service providers, in addition to the incumbent phone company—utilizing any technology (Internet protocol, satellite, or wireless)—would constitute adequate, valid competition in a market. The bill also provides that markets deemed deregulated as of September 1, 2011, shall remain deregulated.

As proposed, S.B. 986 amends current law relating to deregulation of certain telecommunications markets and companies.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 65.051, Utilities Code, as follows:

Sec. 65.051. **MARKETS DEREGULATED.** Requires a market that is deregulated as of September 1, 2011, to remain deregulated. Prohibits the Public Utility Commission of Texas (PUC), notwithstanding any other provision of this title, from regulating a market or company that has been deregulated. Deletes existing Subsection (a) providing that except as provided by Subsection (b), all markets of all incumbent local exchange companies are deregulated on January 1, 2006, unless PUC determines under Section 65.052(a) that a market or markets should remain regulated. Deletes existing Subsection (b) providing that a market of an incumbent local exchange company in which the population in the area included in the market is less than 30,000 is deregulated on January 1, 2007, unless PUC determines under Section 65.052(f) (relating to incumbent local exchange companies) that the market should remain regulated.

SECTION 2. Amends Sections 65.052(a), (b), and (c), Utilities Code, as follows:

(a) Authorizes an incumbent local exchange company to petition PUC to deregulate a market of the company that PUC previously determined should remain regulated. Authorizes only the incumbent local exchange company, notwithstanding any other provision of this title, to initiate a proceeding to deregulate one of the company's markets. Requires PUC, not later than the 90th day after the date PUC receives the petition, to determine whether the regulated market should remain regulated and issue a final order classifying the market in accordance with this section. Deletes existing text requiring PUC, except as provided by Subsection (f), to determine whether each market of an incumbent local exchange company should remain regulated on and after January 1, 2006, and issue a final order classifying the company in accordance with this section effective January 1, 2006.

(b) Prohibits PUC, in making a determination under Subsection (a), from determining that a market should remain regulated if:

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

(2) the population in the area included in the market is less than 100,000 and, in addition to the incumbent local exchange company, there are at least two competitors operating in all or part of the market that are unaffiliated with the incumbent local exchange company; provide voice communications service without regard to the delivery technology, including through Internet Protocol or a successor protocol, satellite, or a technology used by a wireless provider or a commercial mobile service provider, as that term is defined by Section 64.201 (Definition).

Deletes existing text prohibiting PUC from making a determination if the population in the area included in the market is at least 30,000 but less than 100,000, and in addition to the incumbent local exchange company, there are at least three competitors of which one is a telecommunications provider that holds a certificate of operating authority or service provider certificate of operating authority and provide residential local exchange telephone service in the market; at least one is an entity providing residential telephone service in the market using facilities that the entity or its affiliate owns; and at least one is a provider in that market of commercial mobile service as defined by Section 332(d), Communications Act of 1934 (47 U.S.C. Section 151 et seq.), Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993 (Pub. L. No. 103-66), that is not affiliated with the incumbent local exchange company.

(c) Requires PUC, if PUC deregulates a market under this section and the deregulation results in a regulated or transitioning company no longer meeting the definition of a regulated or transitioning company, to issue an order reclassifying the company as a transitioning company or deregulated company, as those terms are defined by Section 65.002 (Definitions). Deletes existing text requiring PUC to issue an order classifying an incumbent local exchange company as a deregulated company that is subject to Subchapter C (Deregulated Company) if the company does not have any markets in which the populations in the area included in the market is less than 30,000, and PUC does not determine that a market of the company should remain regulated on and after January 1, 2006.

SECTION 3. Repealers: Sections 65.052(d) (relating to classification of a transitioning company), (e) (relating to classification as a regulated company), (f) (relating to determination of regulation of an incumbent local exchange company), 65.054 (Petition for Deregulation), and 65.055 (Commission Authority to Regulate Certain Markets), Utilities Code.

SECTION 4. Effective date: September 1, 2011.