

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 259
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Incumbent local exchange carriers (ILEC), sometimes called legacy carriers, are telecommunications providers that had historically been regulated in the Texas market. In 1995, the 74th Legislature, Regular Session, 1995, passed H.B. 2128, which deregulated the telecommunications market, and soon thereafter ILECs began the process of deregulation. As a result of deregulations, competitive local exchange carriers (CLEC) were formed to bring competition to areas that were once monopolized by an ILEC. Since then, CLECs have had less regulatory oversight than ILECs as an incentive to compete at the beginning of deregulation. Over time, these conflicting policies have caused unequal treatment and regulatory uncertainty for ILECs that are transitioning into deregulation.

To provide regulatory certainty for deregulated providers, C.S.S.B. 259 clarifies and enumerates the specific provisions that will continue to apply to an ILEC when the carrier eventually becomes a "deregulated company" under Chapter 65 (Deregulation of Certain Incumbent Local Exchange Company Markets), Utilities Code. In order to ensure that markets remain competitive, C.S.S.B. 259 also clarifies that CLECs and transitioning ILECs serving the same markets will receive the same regulatory certainty provisions. C.S.S.B. 259 also adds safeguards to give certainty that notice procedures for wholesale interconnection will continue to apply once a deregulated company is no longer required to go through the 120-day tariff pricing with the Public Utility Commission of Texas. Furthermore, C.S.S.B. 259 ensures that consumer safeguards remain by clarifying that Chapter 17 (Customer Protection), Utilities Code, which is often seen as the "consumer bill of rights," and the "Five Deadlies" continue to apply to a deregulated company.

C.S.S.B. 259 amends current law relating to telecommunications services and markets.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Public Utility Commission is rescinded in SECTION 5 (Section 65.102, Utilities Code) of this bill.

Rulemaking authority previously granted to the Public Utility Commission is modified in SECTION 2 (Section 52.154, Utilities Code) and SECTION 5 (Section 65.102, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 52.007, Utilities Code, by adding Subsections (d-1), (d-2) and (d-3), as follows:

(d-1) Prohibits the Public Utility Commission of Texas (PUC) from requiring a nondominant carrier to obtain advance approval for a filing with PUC or a posting on the nondominant carrier's Internet website that adds, modifies, withdraws, or grandfathers a retail service or the service's rates, terms, or conditions.

(d-2) Defines, in this subsection, "deregulated company" and "transitioning company." Prohibits PUC from requiring a deregulated company or transitioning company to obtain advance approval for a filing with PUC or a posting on the company's Internet website

that adds, modifies, withdraws, or grandfathers a nonbasic retail service or the service's rates, terms, or conditions, or for a market that has been deregulated, a basic network service of the service's rates, terms, or conditions.

(d-3) Requires an incumbent local exchange carrier to continue to provide to affected resellers of retail services the same notice of rate changes or withdrawal of detariffed services that is was required to provide prior to detariffing, unless an interconnection agreement contract specifies otherwise.

SECTION 2. Amends Section 52.154, Utilities Code, to prohibit PUC from, by a rule or regulatory practice adopted under this chapter, imposing on a nondominant telecommunications utility a greater regulatory burden than is imposed on a holder of a certificate of convenience and necessity serving the same area, or a deregulated company, as defined by Section 65.002 (Definitions), that has 500,000 or more access lines in service at the time it becomes a deregulated company, or serves an area also served by the nondominant telecommunications utility, rather than a holder of a certificate of convenience and necessity serving the same area.

SECTION 3. Amends Subchapter E, Chapter 58, Utilities Code, by adding Section 58.156, as follows:

Sec. 58.156. REGULATION OF SERVICES. Provides that Sections 55.001 (General Standard), 55.002 (Commission Authority Concerning Standards), 55.003 (Rule or Standard), and 55.004 (Local Exchange Company Rule or Practice Change) do not apply to retail nonbasic services offered by an electing company or by a transitioning company, as defined by Section 65.002 (Definitions).

SECTION 4. Amends Section 65.101, Utilities Code, by adding Subsection (c) to provide that a deregulated company that holds a certificate of operating authority is a nondominant carrier.

SECTION 5. Amends Section 65.102, Utilities Code, as follows:

Sec. 65.102. REQUIREMENTS. (a) Provides that a deregulated company that holds a certificate of operating authority issued under this subchapter is not required to: fulfill the obligations of a provider of last resort; comply with retail quality of service standards or reporting requirements; file an earnings report with PUC unless the company is receiving support from the Texas High Cost Universal Service Plan; or comply with a pricing requirement other than a requirement prescribed by this subchapter.

Deletes existing text providing that a deregulated company that holds a certificate of operating authority issued under this subchapter is a dominant carrier governed in the same manner as a holder of a certificate of operating authority issued under Chapter 54 (Certificates), and is subject to the following provisions in the same manner as an incumbent local exchange company that is not deregulated: Sections 54.156 (Resale of Services), 54.158 (Interference with Resold Services Prohibited), and 54.159 (Retention of Access Service and IntraLATA Toll Service); Section 55.012 (Limitations on Discontinuance of Basic Local Telecommunications Service); and Chapter 60 (Competitive Safeguards). Makes nonsubstantive and conforming changes.

(b) Provides that, notwithstanding any other provisions of this title, PUC has only the authority provided by this section over a deregulated company that holds a certificate of operating authority issued under this subchapter. Provides that, subject to Subsection (c), the following provisions apply to a deregulated company and authorizes the PUC to enforce the provisions using the remedies provided by Subchapter B (Enforcement and Penalties), Chapter 15, and Subsection (d):

(1) Subchapter A (Judicial Review), Chapter 15 (Judicial Review, Enforcement, and Penalties);

(2) Subchapters A (General Provisions), C (Deregulated Company), and D (Transitioning Company), Chapter 17, as applicable, to carriers holding a certificate of operating authority;

(3) Sections 52.007 (Tariff Requirements Relating to Providers Not Subject to Rate of Return Regulation), 52.060 (Administrative Fee or Assessment), and 52.156 (Retail Rates, Terms, and Conditions);

(4) Sections 54.001 (Certificate Required), 54.002 (Exceptions to Certificate Requirement for Service Extension), 54.003 (Exceptions to Certificate Requirement for Certain Services), 54.004 (Relinquishment Plan), 54.005 (Notice of and Hearing On Application), 54.006 (Request for Preliminary Order), 54.008(a) (relating to the revocation or amending of a certificate by PUC), 54.101 (Definition), 54.102 (Application for Certificate), 54.103 (Grant or Denial of Certificate), 54.105 (Penalty for Violation of Title), 54.151 (Definition), 54.156 (Resale of Services), 54.158 (Interference With Resold Services Prohibited), 54.159 (Retention of Access Service and Intralata Toll Service), 54.255 (Transfer of Certain Certificates), 54.256 (Application of Contracts), 54.257 (Interference With Another Telecommunications Utility), 54.259 (Discrimination by Property Owner Prohibited), 54.260 (Property Owner's Conditions), and 54.261 (Shared Tenant Services Contracts);

(5) Sections 55.010 (Billing for Service to the State), 55.015 (Lifeline Service), 55.123 (Notice of Use of Device to Telecommunications Utility), 55.133 (Notification of Local Exchange Company), 55.134 (Complaints and Enforcement), 55.136 (Disconnection of Service), and 55.137 (Administrative Penalty);

(6) Chapter 56 (Telecommunications Assistance and Universal Service Fund), except Subchapters F (Service to Uncertified Area) and G (Funding for Certain Telecommunications Utilities);

(7) Chapter 60 (Competitive Safeguards);

(8) Chapter 62 (Broadcaster Safeguards);

(9) Subchapter E (Publication of Mobile Service Customer Telephone Numbers), Chapter 64 (Customer Protection);

(10) Sections 65.001 (Statement of Policy), 65.002 (Definitions), 65.003 (Commission Authority), and 65.004 (Information), this subchapter, and Subchapter E (Reduction of Switched Access Rates) of this chapter; and

(11) Chapter 66 (State-Issued Cable and Video Franchise)

(c) Provides that nothing in this subchapter affects the continuing applicability of the following provisions of this title:

(1) Sections 51.003 (Applicability) and 51.010(c) (relating to Section 14.101 not applying under Chapter 54 to a company that receives a service provider certificate of operating authority);

(2) Section 52.002(d) (relating to prohibiting certain state entities from directly or indirectly regulating rates);

(3) Sections 54.204 (Discrimination by Municipality Prohibited), 54.205 (Municipality's Right to Control Access), and 54.206 (Recovery of Municipal Fee); and

(4) Section 65.051 (Markets Deregulated).

(d) Authorizes PUC to hear complaints of retail and wholesale customers against deregulated companies that are in the scope of PUC's authority provided by this section.

Deletes existing text of Subsection (b) requiring a deregulated company, except as provided by Subsection (c), in each deregulated market, to make available to all residential customers uniformly throughout that market the same price, terms, and conditions for all basic and non-basic services, consistent with any pricing flexibility available to such company. Deletes existing Subsection (c) authorizing a deregulated company to offer an individual residential customer a promotional offer that is not available uniformly throughout the market if the company makes the offer through a medium other than direct mail or mass electronic media and the offer is intended to retain or obtain a customer.

SECTION 6. Repealer: Section 55.012 (Limitations on Discontinuance of Basic Local Telecommunications Service), Utilities Code.

SECTION 7. Effective date: September 1, 2013.