

UTILITIES CODE

TITLE 2. PUBLIC UTILITY REGULATORY ACT

SUBTITLE C. TELECOMMUNICATIONS UTILITIES

CHAPTER 56. TELECOMMUNICATIONS ASSISTANCE AND UNIVERSAL SERVICE

FUND

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 56.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of Assistive and Rehabilitative Services.

(2) "Designated provider" means a telecommunications provider designated by the commission to provide services to an uncertificated area under Subchapter F.

(2-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 651, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. [512](#)), Sec. 1, eff. September 1, 2013.

Sec. 56.002. CONFLICT OF PROVISIONS. If this chapter conflicts with another provision of this title, this chapter prevails.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER B. UNIVERSAL SERVICE FUND

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

(1) assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas under two plans:

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

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

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

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

(4) reimburse the department and the commission for costs incurred in implementing this chapter and Chapter 57;

(5) reimburse a telecommunications carrier providing lifeline service as provided by 47 C.F.R. Part 54, Subpart E, as amended;

(6) finance the implementation and administration of the identification process under Section 17.007 for telecommunications services;

(7) reimburse a designated provider under Subchapter F;

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

(9) finance the program established under Subchapter H.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.08(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 835, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1212, Sec. 23, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1553, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 651, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1451, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 76, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 17.001, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 12, eff. September 7, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 314 (H.B. 2295), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. 512), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 48 (S.B. 1976), Sec. 3, eff. September 1, 2017.

Sec. 56.022. UNIFORM CHARGE. (a) The universal service fund is funded by a statewide uniform charge payable by each telecommunications provider that has access to the customer base.

(b) A telecommunications provider shall pay the charge in accordance with procedures approved by the commission.

(c) The uniform charge is on services and at rates the commission determines. In establishing the charge and the services to which the charge will apply, the commission may not:

(1) grant an unreasonable preference or advantage to a telecommunications provider;

(2) assess the charge on pay telephone service; or

(3) subject a telecommunications provider to unreasonable prejudice or disadvantage.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 404, Sec. 1, eff. Sept. 1, 2001.

Sec. 56.023. COMMISSION POWERS AND DUTIES. (a) The commission shall:

(1) in a manner that assures reasonable rates for basic local telecommunications service, adopt eligibility criteria and review procedures, including a method for administrative review, the commission finds necessary to fund the universal service fund and make distributions from that fund;

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

(3) determine the amount of and approve a procedure for reimbursement to telecommunications providers of revenue lost in providing tel-assistance service under Subchapter C;

(4) establish and collect fees from the universal service fund necessary to recover the costs the department and the commission incur in administering this chapter and Chapter 57;

(5) approve procedures for the collection and disbursement of the revenue of the universal service fund; and

(6) audit voucher payments and other expenditures made

under the specialized telecommunications assistance program established under Subchapter E.

(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.

(c) A company designated under Subchapter F to provide services to permanent residential or business premises within an uncertificated area and that complies with Subsection (b) shall receive universal service fund distributions to assist the provider in providing those services. In addition, the commission shall designate the provider as an eligible telecommunications carrier under 47 U.S.C. Section 214(e)(2), as amended, for those permanent residential or business premises.

(d) The commission shall adopt rules for the administration of the universal service fund and this chapter and may act as necessary and convenient to administer the fund and this chapter. The rules must include procedures to ensure reasonable transparency and accountability in the administration of the universal service fund.

(e) A successor utility, as that term is defined by Section 54.301, that is or becomes an eligible telecommunications carrier under 47 U.S.C. Section 214(e)(2), as amended, is entitled to receive universal service fund distributions for costs in accordance with Subchapter G.

(f) Except as provided by Subsection (g), for an incumbent

local exchange company or 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, 2016, under a plan established under Section 56.021(1)(A) is reduced:

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

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

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

(g) After the commission has adopted rules under Subsection (j), an incumbent local exchange company or cooperative that is subject to Subsection (f) 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)(A). A company or cooperative may not file more than one petition under this subsection. On receipt of a petition under this subsection, the commission shall initiate a contested case proceeding to determine the eligibility of the company or cooperative to receive continued support under a plan established under Section 56.021(1)(A) for service in the exchanges that are the subject of the petition. To be eligible to 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 receipt of a petition under this subsection, the commission shall initiate a contested case proceeding to determine the eligibility of the company or cooperative to receive continued support under a plan established under Section 56.021(1)(B) for service in the exchanges that are the subject of the petition. To be eligible to 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 no 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 shall continue to receive the total amount of support it was eligible to receive on the date the company or cooperative filed a petition under this subsection. A company or cooperative that files a petition under this subsection is not subject to Subsection (h) 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, 2017, if the petition is filed before January 1, 2017;

(2) 75 percent of the amount of support that the company or cooperative will be eligible to receive on December 31, 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) Expired.

(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 until the commission determines that the support should be eliminated under Subsection (r). Until the commission eliminates the support under Subsection (r), the support received by the eligible telecommunications provider 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.

(q) Repealed by Acts 2017, 85th Leg., R.S., Ch. 1161 (S.B. 1476), Sec. 2, eff. June 15, 2017.

(r) If the number of access lines served by competitive eligible telecommunications providers receiving support in an exchange described by Subsection (p) declines by at least 50 percent from the number of lines that were served by those providers in that exchange on December 31, 2016, the commission shall review the per line support amount for that exchange at least once every three years to determine whether continuing the support is in the public interest. The commission by rule shall establish the criteria to determine whether the support should be eliminated. The first review under this subsection for an exchange must be completed not later than the end of the year following the year in which the number of access lines first declines by at least 50 percent.

(s) The support for eligible telecommunications providers under Subsections (p) and (r) expires December 31, 2023.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1212, Sec. 24, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 651, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 76, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 98 (S.B. 980), Sec. 10, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. 512), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 751 (S.B. 583), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 22 (S.B. 804), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 1161 (S.B. 1476), Sec. 1, eff. June 15, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1161 (S.B. 1476), Sec. 2, eff. June 15, 2017.

Sec. 56.024. REPORTS; CONFIDENTIALITY. (a) The commission may require a telecommunications provider to provide a report or information necessary to assess contributions and disbursements to the universal service fund.

(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).

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

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1212, Sec. 24, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 751 (S.B. 583), Sec. 2, eff. June 14, 2013.

Sec. 56.025. MAINTENANCE OF RATES AND EXPANSION OF FUND FOR CERTAIN COMPANIES. (a) In addition to the authority provided by Section 56.021:

(1) for each local exchange company that serves fewer than 31,000 access lines and each cooperative, the commission may adopt a mechanism necessary to maintain reasonable rates for local exchange telephone service; and

(2) for each local exchange company and each

cooperative that serves 31,000 or fewer access lines and that on June 1, 2013, is not an electing company under Chapter 58 or 59, the commission shall adopt rules to expand the universal service fund in the circumstances prescribed by this section.

(b) The commission shall implement a mechanism through the universal service fund to replace the reasonably projected reduction in high cost assistance revenue caused by a commission order, rule, or policy. This subsection does not apply to an order entered in a proceeding related to an individual company's revenue requirements.

(c) The commission shall implement a mechanism to replace the reasonably projected change in revenue caused by a Federal Communications Commission order, rule, or policy that changes:

(1) the federal universal service fund revenue of a local exchange company; or

(2) costs or revenue assigned to the intrastate jurisdiction.

(d) The commission shall implement a mechanism to replace the reasonably projected reduction in contribution caused by a change of commission policy regarding intraLATA "1-plus" dialing access. In this subsection, "contribution" means the average intraLATA long distance message telecommunications service revenue per minute, including intraLATA toll pooling and associated impacts, less the average message telecommunications service cost per minute less the average contribution from switched access multiplied by the projected change in intraLATA "1-plus" minutes of use.

(e) The commission shall implement a mechanism to replace the reasonably projected increase in costs or decrease in revenue of the intrastate jurisdiction caused by another governmental agency's order, rule, or policy.

(f) A mechanism implemented under Subsection (c), (d), or (e) must be through:

(1) an increase in rates, if the increase would not adversely affect universal service; or

(2) the universal service fund.

(g) Notwithstanding any other provision of this section,

after December 31, 2013, the commission may not distribute support granted under this section, including any support granted before that date, to a local exchange company or cooperative that serves greater than 31,000 access lines or that is an electing company under Chapter 58 or 59 on June 1, 2013.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 13, eff. September 7, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 751 (S.B. 583), Sec. 3, eff. June 14, 2013.

Sec. 56.026. PROMPT AND EFFICIENT DISBURSEMENTS. 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.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1212, Sec. 25, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 14, eff. September 7, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 751 (S.B. 583), Sec. 4, eff. June 14, 2013.

Sec. 56.028. UNIVERSAL SERVICE FUND REIMBURSEMENT FOR CERTAIN INTRALATA SERVICE. On request of an incumbent local exchange company that is not an electing company under Chapters 58 and 59, the commission shall provide reimbursement through the universal service fund for reduced rates for intraLATA interexchange high capacity (1.544 Mbps) service for entities described in Section 58.253(a). The amount of reimbursement shall be the difference between the company's tariffed rate for that service as of January 1, 1998, and the lowest rate offered for that service by any local exchange company electing incentive regulation under Chapter 58.

Added by Acts 1999, 76th Leg., ch. 1212, Sec. 26, eff. Sept. 1,

1999.

Sec. 56.030. AFFIDAVITS OF COMPLIANCE. On or before September 1 of each year, a telecommunications provider that receives disbursements from the universal service fund shall file with the commission an affidavit certifying that the telecommunications provider is in compliance with the requirements for receiving money from the universal service fund and requirements regarding the use of money from each universal service fund program for which the telecommunications provider receives disbursements.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 15, eff. September 7, 2005.

Sec. 56.031. ADJUSTMENTS: TEXAS HIGH COST UNIVERSAL SERVICE PLAN. The commission may revise the monthly per line support amounts to be made available from the Texas High Cost Universal Service Plan 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.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 15, eff. September 7, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 535 (H.B. 2603), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 751 (S.B. 583), Sec. 6, eff. June 14, 2013.

For expiration of Subsections (a) and (c)-(m), see Subsection (n).

Sec. 56.032. ADJUSTMENTS: SMALL AND RURAL INCUMBENT LOCAL EXCHANGE COMPANY UNIVERSAL SERVICE PLAN. (a) In this section:

(1) "Rate of return" means the Federal Communications Commission's prescribed rate of return as of the date of any determination, review, or adjustment under this section, to be no greater than 9.75 percent prior to July 1, 2021. If the commission finds that the Federal Communications Commission no longer

prescribes a rate of return necessary to implement this section, the commission shall initiate proceedings to determine or modify the rate of return to be used for purposes of this section as necessary.

(2) "Small provider" means:

(A) an incumbent local exchange company or cooperative that, on September 1, 2013, together with all local exchange companies affiliated with the company or cooperative on that date, served 31,000 or fewer access lines in this state; or

(B) a company or cooperative that is a successor to a company or cooperative described by Paragraph (A).

(b) Except as provided by Subsections (c) through (j), 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, after notice and an opportunity for hearing. In determining appropriate monthly support amounts, the commission shall consider the adequacy of basic rates to support universal service.

(c) On the written request of a small provider that is not an electing company under Chapter 58 or 59, the commission shall determine and disburse support to the small provider in fixed monthly amounts based on an annualized support amount the commission determines to be sufficient, when combined with regulated revenues, to permit the small provider the opportunity to earn a reasonable return in accordance with Section 53.051. A small provider that makes a request under this subsection shall continue to receive the same level of support it was receiving on the date of the written request until the commission makes a determination or adjustment through the mechanism described by Subsection (d).

(d) Not later than January 1, 2018, the commission shall initiate rulemaking proceedings to develop and implement a mechanism to determine the annualized support amount to be disbursed under Subsection (c). The mechanism must:

(1) require the annual filing of a report by each small

provider that submits a request under Subsection (c) for the purpose of:

(A) establishing a continued level of support for the provider or the eligibility of the provider for support adjustment filings for the purposes of Subsections (f), (g), (h), and (i); and

(B) determining whether support levels, when combined with regulated revenues, provide the provider an opportunity to earn a reasonable return as described by Subsection (f);

(2) provide requirements for the annual filing, which may include annual earnings reports filed with the commission under 16 T.A.C. Section 26.73 and any underlying data that, during the rulemaking process, the commission determines to be reasonably necessary for the purposes of Subdivision (1);

(3) provide requirements and procedures for adjustment proceedings that are consistent with Subsections (h) and (i); and

(4) provide a procedure for the commission to assess, as necessary, whether the reported return of a small provider is based on expenses that are not reasonable and necessary.

(e) In a proceeding to adjust support levels using the mechanism described by Subsection (d), the commission may consider the small provider's data for a period not to exceed three fiscal years before the date the proceeding is initiated.

(f) For purposes of the mechanism described by Subsection (d), a return is deemed reasonable if the return is within two percentage points above or three percentage points below the rate of return as defined in this section. A small provider's reported return is subject to assessment under the procedures described in Subsection (d)(4).

(g) The commission may not approve a support adjustment under Subsection (h) or (i) if the commission determines that a small provider's return for the previous fiscal year was reasonable under Subsection (f).

(h) A small provider whose return is not reasonable under Subsection (f) because the return is more than three percentage

points below the rate of return as defined in this section may file an application that is eligible for administrative review or informal disposition to adjust support or rates to a level that would bring the small provider's return into the range that would be deemed reasonable under Subsection (f), except that the adjustment may not set a small provider's support level at more than 140 percent of the annualized support amount the provider received in the 12-month period before the date of adjustment. A rate adjustment under this subsection may not adversely affect universal service. Except for good cause, a small provider that files an application for adjustment under this subsection may not file a subsequent application for adjustment before the third anniversary of the date on which the small provider's most recent application for adjustment is initiated.

(i) There is no presumption that the return is unreasonable for a small provider whose return is more than two percentage points above the rate of return as defined in this section. However, on its own motion, the commission may initiate a proceeding to review the small provider's support level and regulated revenues and after notice and an opportunity for a hearing, adjust the provider's level of support or rates, if appropriate. A rate adjustment under this subsection may not adversely affect universal service. Except for good cause, the commission may not initiate a subsequent adjustment proceeding for a small provider under this subsection before the third anniversary of the date on which the small provider's most recent adjustment proceeding is initiated.

(j) A small provider that is eligible to have support determined and distributed under Subsection (c) shall continue to receive the same level of support it was receiving on August 31, 2017, until the earlier of:

(1) the date on which the commission makes a determination or adjustment through the mechanism described by Subsection (d); or

(2) the 61st day after the date the commission adopts the mechanism described by Subsection (d).

(k) A report or information the commission requires a small provider to provide under Subsection (d) is confidential and is not

subject to disclosure under Chapter 552, Government Code. In any proceeding related to Subsection (d), a third party's access to confidential information is subject to an appropriate protective order.

(1) Except as provided by Subsection (m), this section does not:

(1) affect the commission's authority under Chapter 53 or this chapter; or

(2) limit the commission's authority to initiate a review of a small provider under another provision of this title.

(m) In a proceeding for a small provider initiated under Subchapter A, B, C, or D, Chapter 53, the commission may recalculate the annualized support amount to be disbursed to the small provider and to be used as the basis for adjustment in any subsequent proceeding under Subsections (c) through (j).

(n) Subsections (a), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) and any monthly amounts approved under those subsections expire September 1, 2023.

Added by Acts 2011, 82nd Leg., R.S., Ch. 535 (H.B. 2603), Sec. 2, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 751 (S.B. 583), Sec. 5, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 1116 (S.B. 586), Sec. 1, eff. September 1, 2017.

Sec. 56.033. SUPPORT AVAILABLE TO DEREGULATED MARKETS.

(a) An incumbent local exchange company may not receive support from the universal service fund for a deregulated market that has a population of at least 30,000.

(b) An incumbent local exchange company may receive support from the universal service fund for a deregulated market that has a population of less than 30,000 only if the company demonstrates to the commission that the company needs the support to provide basic local telecommunications service at reasonable rates in the affected market. A company may use evidence from outside the affected market to make the demonstration.

(c) An incumbent local exchange company may make the demonstration described by Subsection (b) in relation to a market before submitting a petition to deregulate the market.

Added by Acts 2011, 82nd Leg., R.S., Ch. 98 (S.B. 980), Sec. 11, eff. January 2, 2012.

Redesignated from Utilities Code, Section 56.032 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(54), eff. September 1, 2013.

SUBCHAPTER D. STATEWIDE TELECOMMUNICATIONS RELAY ACCESS SERVICE

Sec. 56.101. PURPOSE. The purpose of this subchapter is to provide for the uniform and coordinated provision by one telecommunications carrier of a statewide telecommunications relay access service for persons with an impairment of hearing or speech. Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 56.102. TELECOMMUNICATIONS RELAY ACCESS SERVICE. (a) The commission shall adopt and enforce rules establishing a statewide telecommunications relay access service for the use of a person with an impairment of hearing or speech.

(b) The commission rules shall provide that the service must:

(1) use specialized communications equipment, such as a telecommunications device for the deaf, and operator translations; and

(2) meet the criteria provided by Sections 56.103, 56.104, and 56.105.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 56.103. TELECOMMUNICATIONS RELAY ACCESS SERVICE REQUIREMENTS. (a) The telecommunications relay access service shall provide a person with an impairment of hearing or speech with access to the telecommunications network in this state equivalent to the access provided other customers.

(b) The service consists of:

(1) switching and transmission of the call;

(2) live or automated verbal and print translations of communications between a person with an impairment of hearing or speech who uses a telecommunications device for the deaf or a similar automated device and a person who does not have such equipment; and

(3) other service enhancements proposed by the carrier and approved by the commission.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 56.104. TELECOMMUNICATIONS RELAY ACCESS SERVICE CHARGES. (a) For a call made using the telecommunications relay access service, the person calling or called:

(1) may not be charged for a call that originates and terminates in the same local calling area; and

(2) shall pay one-half of the total charges established by contract with the commission for intrastate interexchange calls.

(b) Charges related to providing the service that, under Subsection (a), are not charged to a person calling or called shall be funded from the universal service fund, as specified by the service provider's contract with the commission.

(c) A local exchange company may not impose an interexchange carrier access charge on a call using the service that originates and terminates in the same local calling area.

(d) A local exchange company shall provide billing and collection services for the service at just and reasonable rates.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 56.105. TRIAL SERVICE COSTS AND DESIGN INFORMATION. If the commission orders a local exchange company to provide for a trial telecommunications relay access service for persons with an impairment of hearing or speech, all pertinent costs and design information from the trial must be made available to the public.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 56.106. TELECOMMUNICATIONS RELAY ACCESS SERVICE ASSESSMENTS. (a) The commission shall set appropriate assessments

for all telecommunications utilities to fund the telecommunications relay access service.

(b) In setting an assessment, the commission shall consider:

(1) the aggregate calling pattern of service users; and

(2) any other factor the commission finds appropriate and in the public interest.

(c) The commission shall:

(1) review the assessments annually; and

(2) adjust the assessments as appropriate.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 56.107. UNIVERSAL SERVICE FUND SURCHARGE. (a) A telecommunications utility may recover the utility's universal service fund assessment for the telecommunications relay access service through a surcharge added to the utility customers' bills.

(b) The commission shall specify how each telecommunications utility is to determine the amount of the surcharge.

(c) If a telecommunications utility imposes the surcharge, the bill shall list the surcharge as the "universal service fund surcharge."

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 56.108. SELECTION OF TELECOMMUNICATIONS RELAY ACCESS SERVICE CARRIER. (a) The commission shall select one telecommunications carrier to provide the statewide telecommunications relay access service.

(b) The commission shall make a written award of the contract to the telecommunications carrier whose proposal is the most advantageous to this state, considering:

(1) price;

(2) the interests of the community of persons with an impairment of hearing or speech in having access to a high quality and technologically advanced telecommunications system; and

(3) any other factor listed in the commission's

request for proposals.

(c) The commission shall consider each proposal in a manner that does not disclose the contents of the proposal to a telecommunications carrier making a competing proposal.

(d) The commission's evaluation of a telecommunications carrier's proposal shall include the:

- (1) charges for the service;
- (2) service enhancements proposed by the carrier;
- (3) technological sophistication of the network proposed by the carrier; and
- (4) date proposed for beginning the service.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 56.1085. SPECIAL FEATURES FOR RELAY ACCESS SERVICE.

(a) The commission may contract for a special feature for the state's telecommunications relay access service if the commission determines:

- (1) the feature will benefit the communication of persons with an impairment of hearing or speech;
- (2) installation of the feature will be of benefit to the state; and
- (3) the feature will make the relay access service available to a greater number of users.

(b) If the carrier selected to provide the telecommunications relay access service under Section 56.108 is unable to provide the special feature at the best value to the state, the commission may make a written award of a contract for a carrier to provide the special feature to the telecommunications carrier whose proposal is most advantageous to the state, considering:

- (1) the factors provided by Section 56.108(b); and
- (2) the past performance, demonstrated capability, and experience of the carrier.

(c) The commission shall consider each proposal in a manner that does not disclose the contents of the proposal to a telecommunications carrier making a competing proposal.

(d) The commission's evaluation of a telecommunications

carrier's proposal shall include the considerations provided by Section 56.108(d).

Added by Acts 1999, 76th Leg., ch. 1553, Sec. 2, eff. Sept. 1, 1999.

Sec. 56.109. COMPENSATION OF CARRIER. (a) The telecommunications carrier selected to provide the telecommunications relay access service under Section 56.108 or the carrier selected to provide a special feature for the telecommunications relay access service under Section 56.1085 shall be compensated at rates and on terms provided by the carrier's contract with the commission.

(b) The compensation may include:

(1) a return on the investment required to provide the service; and

(2) compensation for unbillable or uncollectible calls placed through the service.

(c) Compensation for unbillable or uncollectible calls is subject to a reasonable limitation determined by the commission.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1553, Sec. 3, eff. Sept. 1, 1999.

Sec. 56.110. ADVISORY COMMITTEE. (a) An advisory committee to assist the commission in administering this subchapter is composed of the following persons appointed by the commission:

(1) two persons with disabilities that impair the ability to effectively access the telephone network other than disabilities described by Subdivisions (2)-(7);

(2) one deaf person recommended by the Texas Deaf Caucus;

(3) one deaf person recommended by the Texas Association of the Deaf;

(4) one person with a hearing impairment recommended by Self-Help for the Hard of Hearing;

(5) one person with a hearing impairment recommended by the American Association of Retired Persons;

(6) one deaf and blind person recommended by the Texas Deaf/Blind Association;

(7) one person with a speech impairment and one person with a speech and hearing impairment recommended by the Coalition of Texans with Disabilities;

(8) two representatives of telecommunications utilities, one representing a nonlocal exchange utility and one representing a local exchange company, chosen from a list of candidates provided by the Texas Telephone Association;

(9) two persons, at least one of whom is deaf, with experience in providing relay services recommended by the department; and

(10) two public members recommended by organizations representing consumers of telecommunications services.

(b) Members of the advisory committee serve two-year terms. A member whose term has expired shall continue to serve until a qualified replacement is appointed.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.08(b), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1553, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. [512](#)), Sec. 4, eff. September 1, 2013.

Sec. 56.111. ADVISORY COMMITTEE DUTIES. The advisory committee shall:

(1) monitor the establishment, administration, and promotion of the statewide telecommunications relay access service;

(2) advise the commission in pursuing a service that meets the needs of persons with an impairment of hearing or speech in communicating with other telecommunications services users; and

(3) advise the department, at that department's request, regarding any issue related to the specialized telecommunications assistance program established under Subchapter E, including:

(A) devices or services suitable to meet the needs of persons with disabilities in communicating with other users of telecommunications services; and

(B) oversight and administration of the program. Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.08(c), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1553, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. 512), Sec. 5, eff. September 1, 2013.

Sec. 56.112. ADVISORY COMMITTEE SUPPORT AND COSTS. (a) The commission shall provide to the advisory committee:

- (1) clerical and staff support; and
- (2) a secretary to record committee meetings.

(b) The costs associated with the advisory committee shall be reimbursed from the universal service fund.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.08(d), eff. Sept. 1, 1999.

Sec. 56.113. ADVISORY COMMITTEE COMPENSATION AND EXPENSES. A member of the advisory committee serves without compensation but is entitled to reimbursement at rates established for state employees for travel and per diem incurred in the performance of the member's official duties.

Added by Acts 2001, 77th Leg., ch. 1158, Sec. 93, eff. Sept. 1, 2001.

SUBCHAPTER E. SPECIALIZED TELECOMMUNICATIONS ASSISTANCE PROGRAM

Sec. 56.151. SPECIALIZED TELECOMMUNICATIONS ASSISTANCE PROGRAM. (a) The executive commissioner, after consulting with the department, by rule shall establish a specialized telecommunications assistance program to provide financial assistance to individuals with disabilities that impair the individuals' ability to effectively access the telephone network to assist the individuals with the purchase of basic specialized equipment or services to provide the individuals with telephone network access that is functionally equivalent to that enjoyed by individuals without disabilities. The executive commissioner may

adopt rules that identify devices and services eligible for vouchers under the program.

(b) The department may contract, as necessary, to implement and administer the specialized telecommunications assistance program.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 18.08(e), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1553, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 424, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. 512), Sec. 6, eff. September 1, 2013.

Sec. 56.152. ELIGIBILITY. The executive commissioner, after consulting with the department, by rule shall prescribe eligibility standards for individuals, including deaf individuals and individuals who have an impairment of hearing or speech, to receive an assistance voucher under the program. To be eligible, an individual must be a resident of this state with a disability that impairs the individual's ability to effectively access the telephone network.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 18.08(e), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1553, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 424, Sec. 2, eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. 512), Sec. 7, eff. September 1, 2013.

Sec. 56.153. VOUCHERS. (a) The department shall determine a reasonable price for a basic specialized telecommunications device that permits, or basic specialized services that permit, telephone network access and distribute to each eligible applicant a voucher that guarantees payment of that amount to a distributor of new specialized telecommunications devices described by Section 56.151 or to a provider of services described by that section. The department may issue a voucher for a service only if the service is less expensive than a device eligible for a voucher under the program to meet the same need.

(b) A voucher must have the value printed on its face. The individual exchanging a voucher for the purchase of a specialized telecommunications device or service is responsible for payment of the difference between the voucher's value and the price of the device or service.

(c) The executive commissioner, after consulting with the department, by rule shall provide that a distributor of devices or a provider of services will receive not more than the full price of the device or service if the recipient of a voucher exchanges the voucher for a device or service that the distributor or provider sells for less than the voucher's value.

(d) An individual who has exchanged a voucher for a specialized telecommunications device is not eligible to receive another voucher before the fifth anniversary of the date the individual exchanged the previously issued voucher unless, before that date, the recipient develops a need for a different type of telecommunications device or service under the program because the recipient's disability changes or the recipient acquires another disability.

(e) Except as provided by rules adopted under this subsection, an individual is not eligible for a voucher if the department has issued a voucher for a device or service to another individual with the same type of disability in the individual's household. The executive commissioner, after consulting with the department, by rule may provide for financially independent individuals who reside in a congregate setting to be eligible for a voucher regardless of whether another individual living in that setting has received a voucher.

(f) The department shall determine eligibility of each person who files an application for a voucher and issue each eligible applicant an appropriate voucher.

(g) The department shall maintain a record regarding each individual who receives a voucher under the program.

(h) The department shall deposit money collected under the program to the credit of the universal service fund.

Acts 1999, 76th Leg., ch. 62, Sec. 18.08(e), eff. Sept. 1, 1999.
Amended by Acts 1999, 76th Leg., ch. 1553, Sec. 7, eff. Sept. 1,

1999; Acts 2001, 77th Leg., ch. 424, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. 512), Sec. 8, eff. September 1, 2013.

Sec. 56.154. DEPARTMENT DUTIES. (a) Not later than the 45th day after the date the department receives a voucher a telecommunications device distributor presents for payment or a voucher a telecommunications service provider presents for payment, the department shall pay to the distributor or service provider the lesser of the value of a voucher properly exchanged for a specialized telecommunications device or service or the full price of the device or service for which a voucher recipient exchanges the voucher. The payments must be made from the universal service fund.

(b) The department may investigate whether the presentation of a voucher for payment represents a valid transaction for a telecommunications device or service under the program.

(c) Notwithstanding Section 56.153(a), the department may:

(1) delay payment of a voucher to a distributor of devices or a service provider if there is a dispute regarding the amount or propriety of the payment or whether the device or service is appropriate or adequate to meet the needs of the person to whom the department issued the voucher until the dispute is resolved;

(2) provide that payment of the voucher is conditioned on the return of the payment if the device is returned to the distributor or if the service is not used by the person to whom the voucher was issued; and

(3) provide an alternative dispute resolution process for resolving a dispute regarding a subject described by Subdivision (1) or (2).

(d) The executive commissioner, after consulting with the department, may adopt rules to implement this section.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 18.08(e), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1553, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. 512), Sec. 9, eff. September 1, 2013.

Sec. 56.155. RECOVERY OF SPECIALIZED TELECOMMUNICATIONS DEVICE ASSISTANCE PROGRAM SURCHARGE. (a) The commission shall allow a telecommunications utility to recover the universal service fund assessment related to the specialized telecommunications assistance program through a surcharge added to the utility's customers' bills.

(b) The commission shall specify how each utility must determine the amount of the surcharge and by rule shall prohibit a utility from recovering an aggregation of more than 12 months of assessments in a single surcharge. The rules must require a utility to apply for approval of a surcharge before the 91st day after the date the period during which the aggregated surcharges were assessed closes.

(c) If a utility chooses to impose the surcharge, the utility shall include the surcharge in the "universal service fund surcharge" listing as provided by Section 56.107.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 18.08(e), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1553, Sec. 8, eff. Sept. 1, 1999.

Sec. 56.156. PROMOTION OF PROGRAM. The department may promote the program established under this subchapter by means of participation in events, advertisements, pamphlets, brochures, forms, pins, or other promotional items or efforts that provide contact information for persons interested in applying for a voucher under the program.

Added by Acts 2001, 77th Leg., ch. 424, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 532 (S.B. 512), Sec. 10, eff. September 1, 2013.

SUBCHAPTER F. SERVICE TO UNCERTIFICATED AREA

Sec. 56.201. DEFINITION. In this subchapter, "permanent

residential or business premises" means a premises that has permanent facilities for water, wastewater, and electricity.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.202. DESIGNATION OF PROVIDER. (a) Notwithstanding Section 54.001, the commission may designate a telecommunications provider under this section to provide voice-grade services to permanent residential or business premises that are not included within the certificated area of a holder of a certificate of convenience and necessity.

(b) The commission may designate a provider only if the provider is otherwise eligible to receive universal service funds under Section 56.023(b).

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.203. PETITION FOR SERVICE. Persons residing in permanent residential premises or owners of permanent residential or business premises that are not included within the certificated area of a holder of a certificate of convenience and necessity may petition the commission to designate a telecommunications provider to provide to those premises voice-grade services supported by state and federal universal service support mechanisms.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.204. CONTENTS OF PETITION. (a) A petition for designation of a service provider must:

(1) state with reasonable particularity the locations of the permanent residential or business premises for which the petitioners are requesting service;

(2) establish that those locations are within reasonable proximity to one another so that the petitioners possess a sufficient community of interest to warrant the designation of a provider and the expenditure of universal service funds necessary to establish service;

(3) except as provided by Subsection (b), be signed by at least five persons who:

(A) are not members of the same household;

(B) reside in the permanent residential premises or are the owners of the permanent residential or business premises for which service is sought and that are not located within a certificated area;

(C) want service to those premises; and

(D) commit to pay the aid to construction charges for service to those premises as determined by the commission;

(4) nominate as potential providers of service not more than five telecommunications providers serving territory that is contiguous to the location of the permanent residential or business premises using wireless or wireline facilities, resale, or unbundled network elements; and

(5) include as an attachment or an appendix documentation indicating the required residence or ownership, including a state-issued license or identification, tax records, deeds, or voter registration materials.

(b) The commission may accept a petition that is signed by fewer than five persons if a petitioner provides an affidavit stating that the petitioners have taken all reasonable steps to secure the signatures of the residents of permanent residential premises or the owners of permanent residential or business premises within reasonably close proximity to the petitioning premises who are not receiving telephone service when the petition is filed and who want telephone service initiated.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.205. HEARING. If the commission finds that the petition complies with Section 56.204, the commission shall hold an evidentiary hearing to determine if a telecommunications provider is willing to be designated to provide service to those premises or, if a provider is not willing to be designated, to determine the telecommunications provider that is best able to serve those premises under the criteria prescribed by this subchapter.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.206. DENIAL OF PETITION. The commission shall deny a petition if the commission determines that services cannot be

extended to the petitioning premises at a reasonable cost. In making that determination, the commission shall consider all relevant factors, including:

(1) the original cost to be incurred by a designated provider to deploy service to the petitioning premises, and the effect of reimbursement of those costs on the state universal service fund;

(2) the number of access lines requested by the petitioners for the petitioning premises;

(3) the size of the geographic territory in which the petitioning premises are included;

(4) the proximity of existing facilities and the existence of a preferred designated provider under Section 56.213; and

(5) any technical barriers to the provision of service.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.207. ORDER. In any order granting a petition, the commission shall:

(1) approve the facilities to be deployed based on the estimated costs of deployment submitted in accordance with Section 56.208(a);

(2) approve the amount of original cost of deployment to be recovered from the state universal service fund and the terms of original cost recovery under Section 56.209; and

(3) approve the recurring cost recovery under Section 56.209, including the monthly rate for services and the monthly per line fee to be recovered from the state universal service fund under that section.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.208. DESIGNATION OF PROVIDER. (a) In determining which nominated telecommunications provider the commission will designate to provide service to the petitioning premises, the commission shall consider the relative estimated cost to be incurred by contiguous providers to serve the petitioning premises

and give preference to the provider having the least cost technology that meets the quality of service standards prescribed by the commission applicable to that provider.

(b) The commission may not designate a telecommunications provider to serve the petitioning premises unless the premises are located in an area that is contiguous to an area in which the telecommunications provider has previously been designated eligible to receive universal service funding under Section 56.023(b). This subsection does not apply if the commission designates the provider after the provider voluntarily agrees to provide service to the petitioning premises.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.209. RECOVERY OF COSTS. (a) If, after a hearing, the commission designates a telecommunications provider to serve the petitioning premises, the commission shall permit the designated provider to recover from the state universal service fund the provider's actual costs of providing service to the premises, including the provider's original cost of deployment and actual recurring costs.

(b) The reimbursable original cost of deploying facilities to the petitioning premises is the original cost of the telecommunications provider's facilities installed in, or upgraded to permit the provision of service to, the petitioning premises as determined by the financial accounting standards applicable to the provider, including an amount for the recovery of all costs that are typically included as capital costs for accounting purposes, that are not recovered through an aid to construction charge assessed to the petitioners. The final order permitting or requiring the designated provider to provide service to the petitioning premises shall ensure that all the original cost of the provider shall be amortized and recovered from the state universal service fund, together with interest at the prevailing commercial lending rate:

(1) not later than the third anniversary of the date of the order, for a deployment with an original cost of \$1 million or less;

(2) not later than the fifth anniversary of the date of

the order, for a deployment with an original cost of more than \$1 million, but not more than \$2 million; and

(3) not later than the seventh anniversary of the date of the order, for a deployment with an original cost of more than \$2 million.

(c) The designated provider shall recover the provider's actual recurring costs of service, including maintenance and the ongoing operational costs of providing service after deployment of the facilities to the petitioning premises and a reasonable operating margin, from:

(1) the monthly rate charged the customer; and

(2) a monthly per line state universal service fund payment in an amount equal to the unrecovered recurring costs incurred in providing service divided by the access lines served in the petitioning premises.

(d) The monthly per line fee established under Subsection (c) is in addition to the universal service funds associated with the recovery of the original cost of deployment and interest authorized by Subsection (b) and in addition to the universal service funds the designated provider receives to provide service in other areas of this state.

(e) The commission may not authorize or require any services to be provided to petitioning premises under this subchapter during a fiscal year if the total amount of required reimbursements of actual original cost of deployment to all approved petitioning premises under this section, together with interest, including obligations for reimbursements from preceding years, would equal an amount that exceeds 0.02 percent of the annual gross revenues reported to the state universal service fund during the preceding fiscal year.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.210. AID TO CONSTRUCTION CHARGE; CONTRACT FOR SERVICES. The commission shall establish a reasonable aid to construction charge, not to exceed \$3,000, to be assessed each petitioner. The commission may not require a designated provider to begin construction until:

(1) each petitioner has paid or executed an agreement acceptable to the provider to pay the aid to construction charge; and

(2) each petitioner has executed an assignable agreement for subscription to basic local service to the petitioning premises from the designated provider for a period at least equal to the period during which the provider will receive reimbursement for the original cost of deployment under Section 56.209(b).

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.211. PERMANENT PREMISES REQUIRED. A telecommunications provider may not under any circumstances be required to extend service to a location that is not a permanent residential or business premises or be required to provide service to the petitioning premises before the 180th day after the date the provider was designated to provide service to the petitioning premises.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.212. SUBSEQUENT RELATED PETITIONS. (a) If the commission approves a petition requesting service, residents of permanent residential premises or owners of permanent residential or business premises in reasonable proximity to the premises that were the subject of an approved petition who did not sign the prior petition requesting service are not entitled to receive service under this subchapter until the fifth anniversary of the date the prior petition was filed unless the residents or owners file a new petition under this subchapter and agree to pay aid to construction charges on the same terms as applicable to the prior petitioners.

(b) The designated provider shall receive reimbursement for the original cost of deployment and actual recurring costs of providing service to those additional residents in the same manner as the provider received reimbursement of those costs in relation to the prior petitioners. The provider may not receive reimbursement for the original cost of deployment under a subsequent petition if the provider previously received complete

reimbursement for those costs from the state universal service fund. If the state universal service fund has completely reimbursed the original cost of deployment as provided by this subchapter, each subsequent petitioner must pay into the state universal service fund an amount equal to the aid to construction charge paid by each prior petitioner.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.213. PREFERRED PROVIDER. (a) A provider who is designated to serve petitioning premises located within an uncertificated area under this subchapter is the preferred provider for any permanent residential or business premises in reasonable proximity to those petitioning premises for later petitions filed under Section 56.212.

(b) A preferred designated provider is entitled to an opportunity for a hearing under Section 56.205 on a petition filed under Section 56.203.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

Sec. 56.214. CERTIFICATE NOT AMENDED. The designation of a provider to serve permanent residential or business premises within an uncertificated area under this subchapter does not have the effect of:

(1) amending the boundaries of the provider's certificate to provide local exchange service; or

(2) imposing carrier of last resort responsibilities on the provider.

Added by Acts 2001, 77th Leg., ch. 651, Sec. 4, eff. Sept. 1, 2001.

SUBCHAPTER G. FUNDING FOR CERTAIN TELECOMMUNICATIONS UTILITIES

Sec. 56.251. DEFINITION. In this subchapter, "successor utility" has the meaning assigned by Section 54.301.

Added by Acts 2003, 78th Leg., ch. 76, Sec. 7, eff. Sept. 1, 2003.

Sec. 56.252. TELECOMMUNICATIONS UTILITIES ELIGIBLE TO RECEIVE FUNDING UNDER THIS SUBCHAPTER. A telecommunications

utility may receive funding under this subchapter only if:

(1) the telecommunications utility is eligible to receive universal service funding under Section 56.023(b); and

(2) the telecommunications utility is designated as a successor utility under Section 54.303.

Added by Acts 2003, 78th Leg., ch. 76, Sec. 7, eff. Sept. 1, 2003.

Sec. 56.253. DETERMINATION OF SUCCESSOR UTILITY'S COSTS TO BE RECOVERED. (a) At the time the commission designates the successor utility under Section 54.303, the commission shall determine the extent to which the utility should recover the costs the utility will incur in accepting and establishing service to the affected service area.

(b) In making the determination under Subsection (a), the commission shall consider relevant information, including the costs of acquiring and restoring or upgrading the utility's facilities in the geographic area as necessary to make those facilities compatible with the facilities in the utility's other certificated service areas and to comply with commission quality of service standards.

Added by Acts 2003, 78th Leg., ch. 76, Sec. 7, eff. Sept. 1, 2003.

Sec. 56.254. RECOVERY OF COSTS. The commission order designating the successor utility under Section 54.303 shall authorize the utility to recover the costs determined under Section 56.253. The costs may be amortized and recovered from the state universal service fund, together with interest at the prevailing commercial lending rate:

(1) not later than the first anniversary of the date of the order if the costs are not more than \$1 million;

(2) not later than the second anniversary of the date of the order if the costs are more than \$1 million but no more than \$2 million; and

(3) not later than the third anniversary of the date of the order if the costs are more than \$2 million.

Added by Acts 2003, 78th Leg., ch. 76, Sec. 7, eff. Sept. 1, 2003.

SUBCHAPTER H. AUDIO NEWSPAPER PROGRAM

Sec. 56.301. AUDIO NEWSPAPER ASSISTANCE PROGRAM. The commission by rule shall establish a program to provide from the universal service fund financial assistance for a free telephone service for blind and visually impaired persons that offers the text of newspapers using synthetic speech. The commission may adopt rules to implement the program.

Added by Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 17, eff. September 7, 2005.