SUBJECT: Allowing increases in local telephone exchanges' billing rates

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Cook, Menendez, Craddick, Frullo, Gallego, Geren, Hilderbran, Huberty, Smithee, Solomons, Turner

0 nays

2 absent — Harless, Oliveira

WITNESSES: For — Weldon Gray, Eastex Telephone Cooperative and Texas Statewide Telephone Cooperative Inc.; (*Registered, but did not testify:* Jose A. Camacho, Windstream Communications; Brad Denton, Texas Telephone Association; Homero Lucero, Centurylink; Delbert Wilson, Hill Country Telephone Cooperative and Texas State Telephone Cooperative Inc.)

Against — None

BACKGROUND: Utilities Code, sec. 53.301(b) limits how local telephone exchange companies and cooperatives may change prices for their services. Unless these local telephone exchanges undergo a formal rate change application process with the Public Utility Commission (PUC), they must limit their price increases to "minor changes" of not more than 10 percent in any 12-month period.

A minor change may not increase the company's total regulated intrastate gross annual revenues by more than 5 percent. This cap includes all minor changes plus any rate changes and proposed or approved tariff changes.

A "tariff" is a classification of a type of utility customer based on the type of service received. This classification helps to determine the rates the customer will be charged.

Sec. 53.304 allows local exchange companies to make minor changes to their rates or tariffs if they provide the PUC and the Office of Public Utility Counsel with a statement of intent not later than the 91st day before the proposed change.

Sec. 53.305(b) requires local telephone exchanges to provide notice of a proposed change to their customers not later than the 61st day before the proposed change.

DIGEST: HB 2680 would make several changes to how local telephone exchange companies and cooperatives could increase their rates, give notice, and offer services.

Rate changes. HB 2680 would change the definition of a "minor change" related to rate restructuring from allowable increases of up to 10 percent in any 12-month period to allowable increases of up to 50 percent in any 12-month period.

HB 2680 would change the kinds of rate and tariff increases that would be counted toward a local telephone exchange's 5-percent cap on intrastate gross annual revenue. The bill only would count those tariff changes that were approved by the PUC, not those pending approval, toward the 5-percent cap.

Notice period. The bill would shorten the period during which a local telephone exchange must give notice to the PUC and the Office of Public Utility Counsel from the 91st day before a proposed change to the 10th day before a proposed change.

HB 2680 also would shorten the period during which a local telephone exchange must give notice to their customers of a proposed change from not later than the 61st day before a proposed change to the 10th day before a proposed change.

Additional service options. HB 2680 would allow local telephone exchanges to offer package services or promotional service on an optional basis.

Effective date. The bill would take effect September 1, 2011, and would apply only to a proposal to offer service or notice to change a rate or tariff filed on or after that date.

SUPPORTERS SAY: The modern telecommunications marketplace is driven by rapidly evolving technology and market competition. The few remaining regulated telephone companies are mostly small local exchange companies and cooperatives that serve rural areas. In order for these businesses to remain competitive while providing service to customers in isolated areas that might not receive telephone service otherwise, HB 2680 would grant these companies some of the same market flexibility enjoyed by the unregulated and larger telecoms.

HB 2680 would grant local telephone exchanges the flexibility they need to be competitive. The bill would allow local telephone exchanges to make changes in their local rates of more than 10 percent in a 12-month period without going through an expensive rate-change process before the PUC. Under current law, these companies may either apply for permission to raise rates from the PUC or they must wait years to raise rates incrementally to match what the market supports. For example, if a local telephone exchange wanted to raise the price of an element of phone service from $1 to $1.50, the exchange would have to start a rate-changing process with the PUC involving public notices, telephone-bill inserts, consultant costs, and other myriad expenses. Alternatively, the exchange could slowly implement the rate increase under the 10-percent annual cap. Under this scenario, it would take five years to raise the price by 50 cents.

Current law prevents local telephone exchanges from increasing their gross annual intrastate revenue by more than 5 percent in a 12-month period. Even if the rate increase cap was raised from 10 to 50 percent, this 5-percent cap on annual revenue increases still would protect customers by preventing exorbitant rate increases.

HB 2680 would allow local telephone exchanges the same 10-day notice period that larger unregulated telephone companies currently enjoy. Current law already allows larger unregulated telecoms to have 10-day notice periods before exercising pricing flexibility over basic local service, including package deals. The small exchanges need this same flexibility in order to compete with the larger deregulated companies who are currently freer to act on short notice.

HB 2680 would not deregulate local telephone exchanges. Local telephone exchanges still would have to provide notice of rate changes to the PUC and the Office of Public Utility Counsel and to customers. The regulatory and market processes would remain in place and would work together to protect customers.

The Texas telephone market is dynamic enough to keep the local telephone exchanges from raising prices either unreasonably or too quickly. If an exchange did so, its customers would flee to a provider with cheaper rates or move to another telephony technology such as a mobile phone or voice-over Internet.

OPPONENTS SAY:

Local exchange companies and cooperatives are regulated because they often enjoy a monopoly in certain service areas where they are the sole providers. Allowing rates to rise by 50 percent in a 12-month period rather than the sensible 10-percent rate-increase cap provided in current law could harm customers who may not be able to switch providers.

Shortening the notice period that local telephone exchanges must observe when giving notice of changes to the PUC or to customers would reduce the amount of time necessary for regulators and customers to examine any proposed changes before they took effect. Shortening the notice period could reduce the effectiveness of the existing regulatory framework.

OTHER OPPONENTS SAY:

HB 2680 does not go far enough. The bill should remove the 5-percent cap on a local telephone exchange's total regulated intrastate gross annual revenues attributable to rate increases. The Legislature should let the market decide what services and prices are appropriate for Texas customers.

NOTES:

The companion bill, HB 713 by Hegar, was referred to the Senate Business and Commerce Committee on February 23.