

**COMMENTS**  
**OF**  
**TEXAS LEGAL SERVICES CENTER**  
**BEFORE THE**  
**TEXAS SENATE BUSINESS AND COMMERCE COMMITTEE**  
**REGARDING THE INTERIM CHARGE**  
**TO BE HEARD AUGUST 14, 2012**

Mr. Chairman and Members of the Texas Senate Business and Commerce Committee:

My name is Lanetta Cooper and I am here today on behalf of Texas Legal Services Center, a state-wide nonprofit organization that provides legal assistance on behalf of vulnerable Texans. I am here today to talk about the Provider of Last Resort (“POLR”) requirement currently set out in Public Utility Regulatory Act (“PURA”) at Chapter 54.

**Part of the interim charge** before you is to examine the impact and viability of the Provider of Last Resort requirements set out in PURA. A POLR obligation promotes the public policy set out by the legislature in §51.001 of that statute which states that regulation be achieved by “guaranteeing the affordability of basic telephone service in a competitively neutral manner. . .”. This policy reflects the concept of universal service that has been a part of telephone regulation before PURA was enacted and before we had a Public Utility Commission. Universal service stands for the proposition that the telephone network increases in value as another person is connected to the network. In other words, a person signing up for telephone service obtains value for him or herself but value is also provided to other telephone users. By

the addition of that one person, a phone user has one more person they are able to call and to communicate with. This concept of universal service is not outdated. It remains a core value of telephone service whether it is done by traditional landline services or by some other intermodal competitor. The Federal Communications Commission (“FCC”) has recently reaffirmed this principle.<sup>1</sup>

**POLR historically** was an obligation placed upon incumbent local exchange companies (“ILEC”) to provide basic local telecommunications service (“basic service”) upon customer request within its service territory. Basic service provides a telephone consumer with a flat rate telephone line, access to operator and directory assistance services, access to 911 service, ready access to the utility to report problems, and the ability to obtain lifeline and tel-assistance services, if eligible. This obligation was changed by the Legislature somewhat in 2003 when it allowed ILECs to petition the PUC to transfer a part of its territorial POLR obligation to another telecommunications utility with installed facilities that could provide basic service within an ILEC’s territory where the ILEC had no facilities. See PURA §54.302. Since 2003 we are aware of one such request.<sup>2</sup> In 2005 the Texas Legislature amended PURA to allow telecommunication utilities with POLR obligations to meet those obligations through the use of non-wireline technologies. Lastly, SB 980 passed last session relieved a deregulated ILEC

---

<sup>1</sup> See *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; and Universal Service Reform—Mobility Fund* Report and Order and Further Notice of Proposed Rulemaking, Paragraph 49, page 18, WC Docket Nos. 10-90,07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92 and 96-45; and WT Docket No. 10-208(November 18, 2011 FCC)(“49. *Preserve and Advance Voice Service*. The first performance goal we adopt is to preserve and advance universal availability of voice service. In doing so, we reaffirm our commitment to ensuring that all Americans have access to voice service. . .”).

<sup>2</sup> See *Petition of Southwestern Bell Telephone, L.P. d/b/a SBC Texas for an order relieving it of its designation as the Provider of Last Resort in Areas served exclusively by Advantex Communications*, Docket No. 28472.

company holding a certificate of operating authority from the obligations of POLR. SB 980 also relieved an ILEC of its POLR obligation in deregulated areas within its service territory. These two last changes have been in effect for almost a year.

**POLR is still a necessary** component of telephone regulation. POLR assures consumer access to basic local service throughout Texas at affordable rates. Ubiquitous access is essential to the social and economic commerce of Texas and for our health and safety.

**We are concerned about the absence of POLR obligations** in areas of Texas that have been deregulated. Data concerning whether subscriber penetration rates has been affected is not readily available. There is limited state data available about subscriber penetration rates for the low income populations in those areas. At the federal level Texas USF subscribership has decreased 3% in 2010 from a high in 2008. While these time periods are outside the effective date of SB 980, this data may be an indicator that universal service is eroding as competition increases. For each of those areas deregulated we encourage you to consider gathering data on subscribership penetration, USF and TUSF lifeline penetration, how access to 911 has been affected, if at all, and how access to reliable broadband service is achieved. We also encourage you to maintain this data on an ongoing basis through regular monitoring reports to ensure affordable basic and reliable telecommunications service is available and accessible both now and in the future. Lastly, until data assures us that affordable basic and reliable telecommunications service is readily available and accessible in the deregulated areas of the state we recommend that POLR obligations remain for all areas in Texas not currently

deregulated, providing funding, if necessary, to support this obligation throughout all current regulated areas of the state.

**In order to ensure access is available to all segments of Texas' population, we** recommend that the POLR obligation be met through wireline telephone service availability. Our preliminary research has found that our elderly population, particularly the most elderly, retains wireline service in substantial numbers. Data from a PEW study shows 52% of the most elderly population (ages 75 and over) retains wireline service.(Exhibit B Attached). Estimates from a Texas Area Agency on Aging show that 40% of their clients 60 years of age or older utilize only wireline telephone service. For this segment of the population telephone service truly is a lifeline. Physically unable to be mobile, elderly Texans rely on telephones for social and business contact. And, for many of the elderly, they cannot grasp the use of a cell phone but are still able to use wireline service. My mother is one such person. After repeated attempts to use a simple cell phone were unsuccessful, my family gave up. Another attorney in our office also has a parent who is unable to use a cell phone but can use a wireline phone. The ability to telephone for help in emergencies is critical for their health and safety. It is important for these elderly parents to be able to reach out to their children and grandchildren—especially when those parents live far away and in rural communities as my parent does. It is equally important for the children of elderly parents to be able to stay in contact with their parents to ensure they are safe and well. When a parent is in a nursing home far away, the need to maintain telephone contact to ensure your parent's wellbeing is heightened. Access to a cell phone is not a realistic alternative for a substantial portion of this population.

**Access to broadband service** is another reason to require that POLR obligations be met with wireline service availability. Exhibit A is a map prepared by CONNECTED TEXAS. The purple coded areas of the map show that substantial portions of the state do not have access to cable or fiber broadband, but DSL broadband. DSL broadband relies upon telephone wireline service for access to the broadband service. Many social, medical, and business functions are now carried on over the internet. A person's ability to look for and apply for jobs may be compromised if that person is not able to obtain a reliable internet connection because many jobs and applications for those jobs are now posted electronically. For many areas of the state reliable internet access is not available without a wireline connection.

In summary, POLR is still an important obligation to retain and it must be affordable. The POLR obligation should be met by the telecommunications utility with telephone wireline service availability to ensure that all segments of Texas' population have access to basic local telecommunications service and to ensure that a consumer's access to reliable internet connection is not compromised.