

Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 1959 (Wood) – As Introduced January 30, 2018

SUBJECT: Telecommunications: universal service programs

SUMMARY: Extends the sunset date for the California High Cost Fund-A (CHCF-A) and High Cost Fund-B (CHCF-B) from January 1, 2019 to January 1, 2023, and adds an urgency clause.

EXISTING LAW:

- 1) Requires the California Public Utilities Commission (CPUC) to exercise its regulatory authority to maintain the CHCF-A Administrative Committee Fund program to provide universal service rate support to small independent telephone corporations in amounts sufficient to meet the revenue requirements established by the CPUC through rate-of-return regulation in furtherance of the state's universal service commitment to the continued affordability and widespread availability of safe, reliable, high-quality communications services in rural areas of the state. (Public Utilities Code (PUC) Section 275.6)
- 2) Requires the CPUC to develop, implement, and maintain a suitable, competitively neutral, and broad-based program to establish a fair and equitable local rate support structure aided by universal service rate support to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the CPUC. The program shall be known, and may be cited, as the CHCF-B Administrative Committee Fund program or CHCF-B program. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies. (PUC Section 276.5)
- 3) Sunsets the CHCF-A and CHCF-B program on January 1, 2019. (PUC Section 275.6 and Section 276.5)
- 4) Establishes the following funds within the State Treasury:
 - a) The CHCF-A Administrative Committee Fund;
 - b) The CHCF-B Administrative Committee Fund;
 - c) The Universal Lifeline Telephone Service Trust Administrative Committee Fund;
 - d) The Deaf and Disabled Telecommunications Program Administrative Committee Fund;
 - e) The California Teleconnect Fund Administrative Committee Fund; and,
 - f) The California Advanced Services Fund. (PUC Section 270)

- 5) Requires the CPUC to require interconnected Voice over Internet Protocol (VoIP) service providers to collect and remit surcharges on their California intrastate revenues in support of specified public purpose program funds. (PUC Section 285)
- 6) Establishes the CHCF-A Administrative Committee, which is an advisory board to advise the CPUC regarding the development, implementation, and administration of a program to provide for transfer payments to small independent telephone corporations providing local exchange services in high-cost rural and small metropolitan areas in the state to create fair and equitable local rate structures, as specified, and to carry out the program pursuant to the CPUC's direction, control, and approval. (PUC Section 275)
- 7) Establishes the CHCF-B Administrative Committee, which is an advisory board to advise the CPUC regarding the development, implementation, and administration of a program to provide for transfer payments to telephone corporations providing local exchange services in high-cost areas in the state to create fair and equitable local rate structures, as specified, and to carry out the program pursuant to the CPUC's direction, control, and approval. (PUC Section 276)
- 8) Specifies that it is the intent of the Legislature that all telecommunications markets subject to CPUC jurisdiction be opened to competition not later than January 1, 1997. The CPUC shall take steps to ensure that competition in telecommunications markets is fair and that the state's universal service policy is observed. (PUC Section 709.5)

FISCAL EFFECT: Unknown. This bill has been keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) **Author's Statement:** According to the author, "AB 1959 allows California to continue its commitment of providing each individual access to high quality, affordable and reliable telecommunication services. The highly variable landscape of California poses unique issues in ensuring widespread and affordable services. Providing telephone services in rural regions can be difficult with sparsely populated areas paired with rough terrain. Building and maintaining telecommunication networks in rural regions would result in high cost for these customers without support from California's High Cost Fund-A and B programs. AB 1959 will help keep rates affordable in high cost areas so residents can stay connected to essential services. Telecommunications services are an integral aspect of everyone's day-to-day lives, but also play a crucial role in public safety. AB 1959 is essential in continuing to keep all Californians connected."
- 2) **Background:** Ensuring that everyone has access safe, reliable, and high-quality telecommunications service is a bedrock principle of telecommunications policy. The CPUC is tasked with developing and implementing programs to advance universal access to necessary services, such as telephone and broadband services. To do so, the CPUC implements a number of public programs to promote universal service, including the CHCF-A, CHCF-B, the California Lifeline Program, the California Teleconnect Fund, the Deaf & Disabled Telecommunications Program, and the California Advanced Services Fund.

Such universal service programs are generally developed to provide support either for providers in areas of the state where it might not make economic sense to provide

telecommunications services due to the difficulties in building and/or providing services, such as rural, remote, and sparsely populated areas; or support for individuals who are low income, deaf and disabled, or living in or serving disadvantage communities and institutions, that otherwise might struggle to access affordable telecommunications services. Universal service programs serve to give as many subscribers as possible access to the telecommunications network; further complimenting the network and advancing the State's telecommunications objectives.

The universal service programs are funded through a surcharge on each customer's phone bill for landline, wireless, and VoIP services. The surcharge for each program is typically adjusted on an annual basis to ensure adequate funding to cover carrier claims and administrative costs. As of March 1, 2018, the total surcharge for all universal service programs is 7.24 percent of each customer's phone bill for intrastate telecommunications service.

- 3) **High Cost Fund-A:** The CHCF-A and CHCF-B are universal service programs that support providers serving rural, high-cost areas. Combined with federal funding, CHCF-A and CHCF-B ensure rates for Californians in such areas remain reasonable and comparable to rates throughout the rest of the state. The CHCF-A provides support for rural small independent telephone companies, also known as Rural Local Exchange Carriers (RLECs), who are under rate-of-return regulations. These RLECs are carriers of last resort (COLR) meaning they are obligated to serve all the customers in their service area.

The level of support received by CHCF-A carriers is determined as part of a CPUC rate proceeding, either through a general rate case proceeding or an advice letter. The CPUC calculates a revenue requirement need by the carrier to cover expenses, a return on capital investment, and a profit. This includes all reasonable investments necessary to provide for the delivery of high-quality voice communication services and the deployment of broadband-capable facilities. As of March 1, 2018, the surcharge for CHCF-A is 0.35 percent of each customer's phone bill for intrastate telecommunications service.

Currently 13 RLECs are eligible for CHCF-A funds:

- Calaveras Telephone Company
- California-Oregon Telephone Company
- Ducor Telephone Company
- Foresthill Telephone Company
- Happy Valley Telephone Company
- Hornitos Telephone Company
- Kerman Telephone Company
- Pinnacles Telephone Company
- The Ponderosa Telephone Company
- Sierra Telephone Company
- Siskiyou Telephone Company
- The Volcano Telephone Company
- Winterhaven Telephone Company

Of the 13 RLECs listed, three do not currently draw CHCF-A funds:

- Happy Valley Telephone Company
- Hornitos Telephone Company
- Winterhaven Telephone Company

The CPUC continues to have an open proceeding (R. 11-11-007) to review CHCF-A as it responds to market, regulatory, and technological changes.

- 4) **High Cost Fund-B:** The CHCF-B provides support to large telephone companies who are COLRs for providing basic telephone service to all residential customers within designated high-cost service areas. Large COLRs that currently draw CHCF-B funds include AT&T and Frontier Communications. High cost areas are high-cost Census Block Groups in the providers service area where the cost of service exceeds \$36 per month. In 2014, the CPUC reduced the CHCF-B surcharge rate to zero percent reflecting the repayment of a \$134 million loan to the State. As of March 1, 2018, the surcharge for CHCF-B remains at zero percent of each customer's phone bill for intrastate telecommunications service.

This bill extends the sunset date for the CHCF-A and CHCF-B from January 1, 2019 to January 1, 2023. This bill would be the eighth extension of these programs and allows the Legislature to reexamine its effectiveness and how best to utilize funds to advance the state's overall telecommunications goals. Extension of the fund would continue to allow small and large providers to guarantee affordable access to telephone services throughout California, especially in rural areas of the state where the cost of providing and maintaining service might be economically unfeasible given the difficulties in terrain, the higher cost of maintenance and repairs, especially in high risk fire areas, and the lower number of subscribers.

- 5) **Competition in High-Cost Areas:** The CPUC is tasked with developing and implementing policies for the telecommunications industry, including ensuring fair, affordable universal access to telecommunications services, while also removing barriers that prevent a fully competitive market. There has been debate over whether competition and the elimination of subsidies in high-cost areas could actually promote better service and lower cost for customers without undermining the states universal service principles.

Certain providers, such as cable and video service providers or competitive local exchange carriers, are generally free to compete in any service area; however, there is some prohibition in offering certain voice services in RLEC service territories. Proponents argue that RLEC service territories should be fully opened to competition because it would benefit customers by advancing infrastructure deployment by competitors that do not and cannot rely on high cost subsidies, promote broadband adoption, and offers many rural consumers voice and other broadband service already available to their urban counterparts.

Opponents to competition in RLEC service territories argue that unlike them, other providers are not COLRs. Hence, they are not obligated to serve all customers in a service area. Competitors are free to become COLRs, which would allow them to receive certain subsidies, but with that comes additional rules and requirements that a provider may not wish to take on. Without COLR obligations, non-COLRs could potentially cherry pick or serve only small portions of RLEC service territories that are more economically profitable. Doing so would further reducing the number of customers for RLECs; potentially increasing the cost for all remaining customers and ultimately hampering a RLECs economic ability to continue service in such high-cost areas.

In 2014, the CPUC issued an interim decision (D. 14-12-084) where they preliminarily concluded that it was not in the public interest to open RLEC service territories to wireline competition at the time because of the unique characteristics of the territories and the public safety, reliability, affordability, and economic developments goals of the State. The CPUC did acknowledge the need for more studies and is currently considering the issue in Phase II

of Rulemaking 11-11-007. However, certain providers argue that the study has been delayed and it is unclear if or when the study will be completed.

Furthermore, some providers argue that the CHCF-B is no longer necessary to ensure affordable basic service and should be eliminated. Proponents argue that the fund has been declining over the years as more population growth occurs, and CHCF-B carriers have access to significant amounts of subsidies from other federal and state programs to help modernize their telecommunications networks. Opponents argue that other providers are currently free to compete in CHCF-B carrier service areas, but arguably they have not done so because such high-cost areas are still not economically viable for them to serve. Eliminating the CHCF-B could potentially increase cost for customer in high-cost areas without any guarantees that an alternative provider, that is not a COLR, will decide to enter and stay in the market to provide better service and keep cost down. However, proponents argue that the CHCF-B has reached a point in which it is likely providing excessive cost recovery for COLRs in a growing competitive market and that the CPUC should also conduct a proceeding examining the issue.

- 6) **Arguments in Support:** According to the California's Independent Telecommunications Companies, a co-sponsor of the bill, "Building and maintaining telecommunications networks in rural areas is extremely expensive on a per customer basis due to tough terrain, extreme weather, greater distances between customers, and sparse populations. Due to these factors, there's generally no business case for providing affordable telephone services in rural areas without cost support from federal and state universal service programs. AB 1959 will keep rural customers' telephone service affordable, while providing access to services that would be otherwise unavailable in remote regions of the state."
- 7) **Arguments in Opposition:** According to the California Cable & Telecommunications Association, "The regulatory restrictions on the opening of Small Independent Telephone Corporations markets to wireline competition must be eliminated because it only serves to constrain investment in advanced networks in rural, sparsely populated areas of California, and because it denies consumers in these service territories the choice of service offerings available in non-CHCF-A service areas. [In addition,] unsubsidized providers of advanced telecommunications services provide competitive offerings in most, if not all of the service territories of the B-Fund carriers. Given the minimal amount of B-Fund monies at stake, and the significant amounts of subsidies provided to the current B-Fund [carriers of last resort], as well as the existence of unsubsidized providers, there is no argument to be advanced that the B-Fund is necessary to ensure affordable basic service."
- 8) **Previous Legislation:** SB1364 (Fuller) of 2014 extends the sunset date of the CHCF-A and CHCF-B universal telecommunications service programs until January 1, 2019. *Status: Chaptered by the Secretary of State, Chapter 520, Statutes of 2014.*

SB 379 (Fuller) of 2012 modifies the CHCF-A program to align the Federal Communications Commission's modification of the federal universal service program to allow high-cost support for the California Independent Telecommunications Companies broadband-capable facilities in rural areas. *Status: Chaptered by the Secretary of State, Chapter 729, Statutes of 2012.*

SB 3 (Padilla) of 2011 extends the sunset date for the CHCF-A and CHCF-B collections until January 1, 2015, and requires VoIP service providers to collect and remit surcharges to state universal service programs. *Status: Chaptered by the Secretary of State, Chapter 695, Statutes of 2011.*

SB780 (Wiggins) of 2008 extends the sunset date for the CHCF-A program from January 1, 2009 to January 1, 2013, and CHCF-B program from January 1, 2009 to January 1, 2012. *Status: Chaptered by the Secretary of State, Chapter 342, Statutes of 2008.*

REGISTERED SUPPORT / OPPOSITION:

Support

California Communications Association (co-sponsor)
California's Independent Telecommunications Companies (co-sponsor)
Frontier Communications (co-sponsor)
AT&T
Office of Ratepayer Advocates - CPUC

Opposition

California Association of Competitive Telecommunications Companies (unless amended)
California Cable & Telecommunications Association (unless amended)

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