

CHAPTER 445

H.B. No. 653

AN ACT

relating to the establishment of an education tariff for certain telecommunications services.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article XIV, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 96B to read as follows:

Sec. 96B. (a) The commission by rule shall require a dominant carrier to file a tariff containing a reduced rate for a telecommunications service the commission finds is directly related to a distance learning activity that is or could be conducted by an educational institution in this state.

(b) The commission rules shall specify:

- (1) the telecommunications services that qualify under this section;*
- (2) the process by which an educational institution qualifies for a reduced rate;*
- (3) the date by which a dominant carrier shall file a tariff;*
- (4) guidelines and criteria by which the services and reduced rates shall further the goals stated in Subsection (d) of this section; and*
- (5) any other requirements, terms, and conditions that the commission determines to be in the public interest.*

(c) A tariff filing by a dominant carrier under this section:

- (1) shall concern only the implementation of this section;*
- (2) is not a rate change under Section 43 of this Act; and*
- (3) does not affect any of the carrier's other rates or services.*

(d) *The services and reduced rates shall be designed to:*

(1) *encourage the development and offering of distance learning activities by educational institutions;*

(2) *meet the distance learning needs identified by the educational community; and*

(3) *recover the long-run incremental costs of providing the services, to the extent those costs can be identified, so as to avoid subsidizing educational institutions.*

(e) *The commission is not required to determine the long-run incremental cost of providing a service before approving a reduced rate for the service. Until cost determination rules are developed and the rates established under this section are changed as necessary to ensure proper cost recovery, the reduced rates established by the commission shall be equal to 75 percent of the otherwise applicable rate. After the commission develops cost determination rules for telecommunications services generally, it shall ensure that a reduced rate approved under this section recovers service-specific long-run incremental costs and avoids subsidization.*

(f) *An educational institution or dominant carrier may at any time request the commission to:*

(1) *provide for a reduced rate for a service directly related to a distance learning activity that is not covered by commission rules;*

(2) *change a rate;*

(3) *amend a tariff; or*

(4) *amend a commission rule.*

(g) *If the commission determines that a change requested under Subsection (f) is appropriate, it shall make the requested change.*

(h) *In this section:*

(1) *“Distance learning” means instruction, learning, and training that is transmitted from one site to one or more sites by telecommunications services that are used by an educational institution predominantly for such instruction, learning, or training, including video, data, voice, and electronic information.*

(2) *“Educational institution” means and includes accredited primary or secondary schools owned or operated by state and local governmental entities or private entities; institutions of higher education as defined by Section 61.003, Education Code; private institutions of higher education accredited by a recognized accrediting agency as defined by Section 61.003(13), Education Code; the Central Education Agency, its successors and assigns; regional education service centers established and operated pursuant to Sections 11.32 and 11.33, Education Code; and the Texas Higher Education Coordinating Board, its successors and assigns.*

SECTION 2. As soon as possible after the effective date of this Act, the Public Utility Commission of Texas shall adopt rules as prescribed by Section 96B, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), as added by this Act.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 4, 1993, by a non-record vote; passed by the Senate on May 25, 1993: Yeas 30, Nays 0.

Approved June 6, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.