

Testimony of Carl Erhart to Texas Senate Committee on Business & Commerce Regarding SB 980 and SB 982-986

Introduction

Mr. Chairman, members, my name is Carl Erhart, and I am Central Region President for Verizon located here in Austin. Thank you for the opportunity to address you today.

I am here to testify in support of SB's 980 and 982-986.

The last time I testified before this committee was almost 6 years ago, the last time you reformed the telecommunications laws. Since then, technological advancement and industry investment continues to drive innovation and fundamental changes to the benefit of consumers. SB 980 and the related bills will continue the modernization of Texas communications policy and encourage additional innovation for consumers.

Competitive Landscape in Texas

The marketplace for telecommunications products and services in Texas is indeed robust. Here are just a few statistics about the overall market:

- There are more than twice as many wireless subscribers than wireline subscribers in Texas;
 - Indeed, the FCC notes in a recent report that more than one of every four American homes nationally had only wireless phones and an additional 16% of homes received all or almost all calls on their wireless phone despite still having a landline.
- Today, alternative broadband technologies (such as fiber, fixed and mobile wireless, and satellite) serve more customers than either DSL or cable-modem service;
 - And according to the Texas Dept. of Agriculture recent statewide mapping project, 99.6% of Texans now have access to broadband service from one or more of these providers;

Indeed, if you look at all voice-capable connections in Texas, only roughly 20% are currently provided by incumbent local exchange carriers that are still subject to regulation. I have handed out a slide with a chart estimating the market share of the various communications technologies in Texas. As you can see, ILEC voice lines represent approximately one in five of all communications connections in the state. However, it is this single segment of the market that continues to be subject to many regulatory requirements. This competitive disparity is addressed in certain aspects of the legislation.

Legislative Provisions

SB 980 and the related bills propose a number of regulatory reforms that will strengthen the competitiveness of the Texas telecommunications marketplace and further help attract investment capital to the state and encourage innovation for consumers. Three major provisions are (1) regulatory certainty for VoIP and IP-enabled services; (2) the elimination of legacy tariff filing requirements; and (3) modification of the current statutory test for determining when markets are competitive.

1. First, Regulatory Certainty for IP-Enabled Services

Although Texas is in the forefront of national efforts to keep investment-limiting regulation off of advanced technologies like VoIP and other Internet-protocol enabled services, the State has not taken full advantage of this forward-looking policy by explicitly recognizing it in statute. At least 17 other states have enacted or have in place similar regulatory certainty provisions to provide a “regulatory safe harbor” to further encourage the significant investments necessary for the deployment of these advanced next generation networks.

It is time for Texas to codify its pro-investment policy and provide certainty for the investment capital needed to further deploy next generation technologies to Texas consumers. The language in SB 980 does this while at the same time does not change anything with respect to the application of state fees and assessments that may be applied against VoIP services, if applicable, and by “taking off the table” an intra-industry inter-carrier compensation question that is currently the subject of a new proceeding at the FCC.

2. Second, Optional Detariffing for Incentive Regulation Companies

It is also important to note, that detariffing is not deregulation and this proposal does not change the PUC’s existing regulatory authority with respect to any rates that may still be subject to some form of price regulation.

What SB 980 does is allow non-rate-of-return companies the option to opt out of filing voluminous and administratively burdensome tariffs, replacing them with Internet-based price guides and other forms of written customer notices. This administrative reform will serve the dual purpose of relieving the carriers and the PUC from maintaining archaic tariffs while giving consumers easily accessible information regarding rates, terms, and conditions. Roughly 30 states and the FCC currently permit detariffing for some or all services.

3. Third, Competitive Market Test Update

The telecommunications reform of 2005 implemented a “market test” to determine whether a geographic area should be considered “deregulated.” Both the PUC as well as the Sunset Staff recommended changes to this test as it has become obsolete due to significant growth in the availability and adoption by consumers of these alternative technologies.

SB 986 revises the market test to "2 or more unaffiliated providers." Second, it extends this test to all remaining market sizes. Third, it removes obsolete competitive modes that were originally listed in the statute and replaces these with flexibility for the PUC to assess all technology modes available in a market. And, finally, it provides regulatory certainty to investors that markets that have been deregulated will remain deregulated.

Summary

Mr. Chairman, members, in summary I would note that SB 980 and the related bills do two important things: they encourage additional investment in Texas, especially in new IP technologies; and (2) they provide for more competitive parity between all providers in the marketplace. Texas consumers will reap the benefits of these reforms through more efficient competitive markets and further investments in new technologies.

Mr. Chairman, members, Verizon supports SB 980 and SB 982-986. I would be happy to take any questions.