Texas Universal Service Fund Update

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Disclaimer

- This is a summary. There are details omitted that could be important in any particular proceeding.
- This does not constitute legal advice or the rendition of legal services.
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Universal Service Policy

- The policy goal of achieving universal service recognizes that high-cost areas would not receive service without support.
- Network costs in uneconomic-to-serve regions are paid by requiring all customers to contribute toward a nationwide communications network that benefits the entire country.
- All Texans benefit from a reliable statewide, wireline network.
- Rural service is an especially important issue in Texas given vast rural lands.
  - 12% of Texas's population lives in rural areas, and it has the largest rural population of any U.S. state.
  - Texas has 142 million acres of rural lands, an area larger than the state of California.
  - Traditionally rural economic activities—like energy production, agriculture, and tourism—make up a huge portion of Texas's GDP.
- Source: 2016 Balhoff & Williams paper, *Texas Universal Service Policy: Perspectives for Reform Small Texas ILECs*

Federal Universal Service History

- Communications Act of 1934 created the FCC and called for "rapid, efficient, Nation-wide … communication service with adequate facilities at reasonable charges" to "all the people of the United States."
- Telecommunications Act of 1996 mandated service availability to all customers—including those in low income, rural, and high cost areas—at rates reasonably comparable to those charged in urban areas. USF support was originally implicit in inter carrier compensation (ICC) payments.
- Post-1996 reforms have sought to create an explicit USF system. ICC rates were reduced for larger price-cap carriers in 2000 then for smaller rate-of-return carriers in 2001. Increased USF support was supposed to replace lost ICC rates.
- The FCC's 2011 USF/ICC Transformation Order was designed to ensure "robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation." Created the Connect America Fund (CAF).
- Federal support mechanisms now include the new CAF, High Cost Loop Support, ICC replacement funding (Interstate Common Line Support of ICLS), and various specialized non-network focused programs (schools, libraries, health care, etc.).
- Source: 2016 Balhoff & Williams paper, *Texas Universal Service Policy: Perspectives for Reform Small Texas ILECs*

About Texas Universal Service

- Legislature created TUSF in 1987 “to assist telecommunications providers in offering basic local telecommunications service at reasonable rates in high-cost areas.”
- “The underlying purpose of the TUSF is to implement a competitively neutral mechanism to enable all residents of the State to obtain basic local telecommunications services (BLTS) needed to communicate with other residents, businesses, and governmental entities.”
- “The TUSF accomplishes this purpose by assisting telecommunications providers in providing BLTS at reasonable rates to customers in high cost rural areas and to qualifying low-income and disabled customers.”
- “The TUSF is funded by a statewide uniform charge, or assessment payable by each telecommunication provider that has access to the customer base.”
- Source: PUCT’s Report to 83rd Legislature

About Texas Universal Service (Cont'd)

- The current TUSF consists of eleven programs:
  - **Programs for High Cost Assistance**

1. High Cost Universal Service Plan (THCUSP)
2. Small and Rural ILEC Universal Service Plan (SRILEC USP)
3. PURA § 56.025 – FUSF Loss Recovery
4. Service to Uncertificated Areas
5. Funding for Successor Utilities
6. Additional Financial Assistance (AFA)

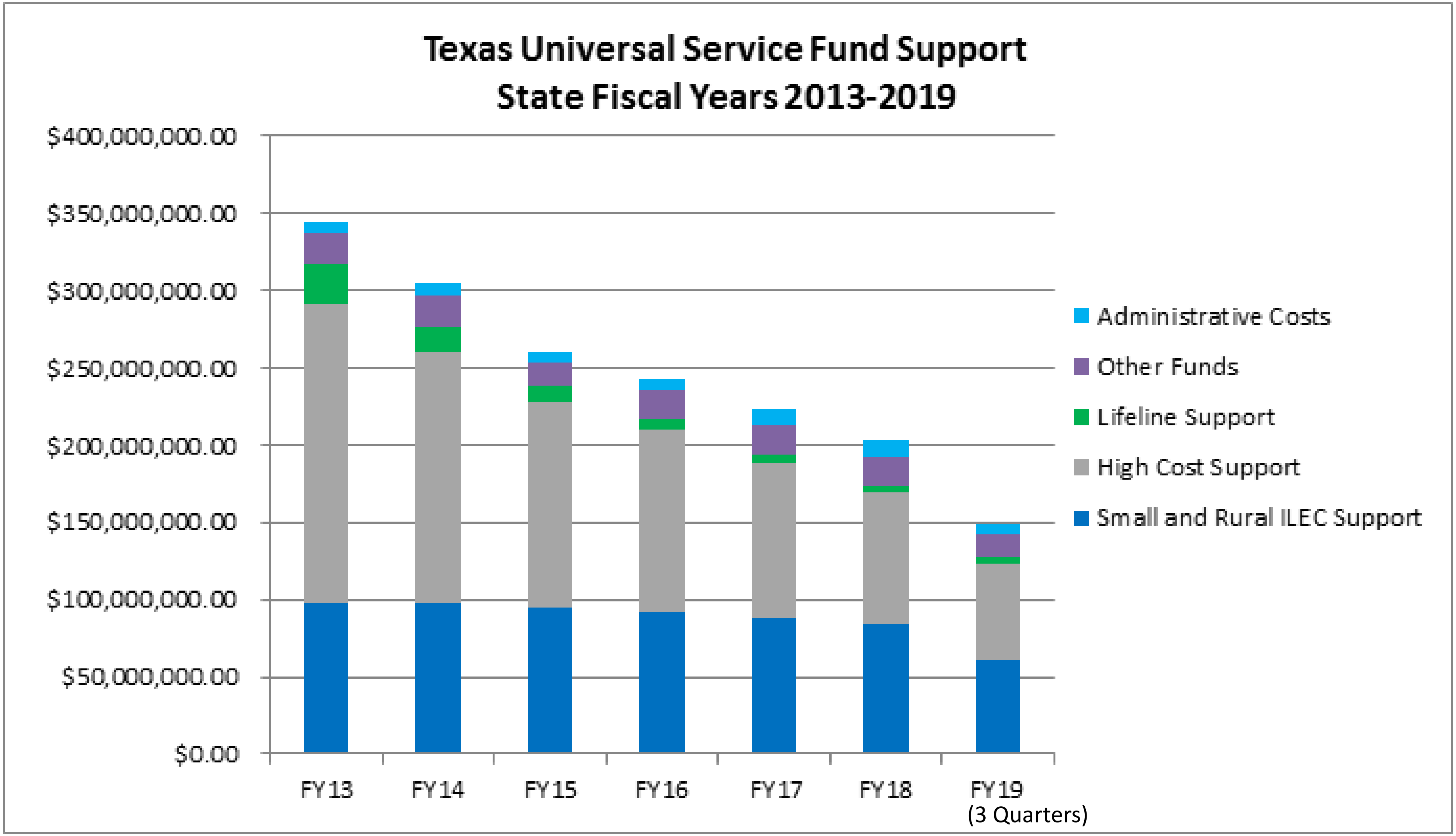
  - **Programs for Low-Income or Disability Assistance**

7. Lifeline
8. Texas Telecommunications Relay Service
9. Specialized Telecommunications Assistance Program (STAP)
10. Audio Newspaper Program (ANP)

  - **Programs for Schools and Libraries**

11. IntraLATA (Schools, Libraries & Hospitals for non-58/59 Companies)

- Source: PUCT's Report to 83rd Legislature



- Source: Compiled from Solix's Quarterly Reports to the PUCT

Recent Texas USF Activity

- In 2011, HB 2603 froze small company funding at levels set in Docket No. 18516 with an annual consumer price index (CPI) adjustment, subject to support adjustments with notice and hearing, through Sept. 1, 2013.
- In 2012, AT&T/Southwestern Bell and Verizon/GTE (now Frontier) opted to forego TUSF by Jan. 1, 2017 in Project No. 39939.
- In 2013, SB 583 reduced funding for the other 31,000+ providers unless they demonstrated need (which they subsequently did). CLECs/ETPs were to receive commensurate lower support if the relevant incumbent local exchange carrier's support lowered.
- SB 583 also extended CPI adjustment for SRILECs until Sept. 1, 2017. So in 2017, they faced a "cliff" wherein their support would be reduced to per-line levels set almost 20 years previously had another mechanism not been developed.

2017 Legislation: Senate Bill 586

- The new law deems returns reasonable between +2%/-3% of the FCC-authorized ROR, with the benchmark ROR not to exceed 9.75% before 2021.
- It applies only to companies and cooperatives with <31,000 access lines that opt into this process.
- Commission had to initiate a rulemaking by January 1, 2018 to establish procedures for support adjustments for those outside the reasonable rate band.
- TUSF would be frozen at the then-current fixed monthly amount until 60 days after rulemaking to allow SRILECs time to opt in.
- Then those who opt in would continue with frozen support until any adjustments are made under the new rule.

2018 Rulemaking: Project No. 47669 and 16 TAC 26.407

- Rule requires companies to file written notices opting in, then to file annual "EMR+" reports each September to allow Commission Staff to examine their earnings and reported ROR the prior calendar year.
- Staff has 90 days to examine reports and make a recommendation as to whether each electing company:
  - Category 1: Under-earning (currently under 6.75%)
  - Category 2: Reasonable (currently 6.75%-11.75%)
  - Category 3: Over-earning (currently over 11.75%)
- Under-earning companies can initiate contested cases to ask for support and/or rate increases, but support increases are limited to 140% of previous year's TUSF.
- Commission Staff can initiate contested cases to reduce support and/or rates of over-earning companies.
- Absent a good cause waiver, SB 586 adjustments may not occur more frequently than every three years.

First Year Implementation of 26.407

- Notices were filed in individual dockets by all but one of the eligible SRILECs in December 2018.
- EMR+ reports followed in February 2019.
- Commission Staff filed recommendations in all dockets in May-June 2019 categorizing providers based upon reported RORs considering any adjustments Staff may have made.
  - 31 providers in Category 1 (under-earning)
  - 9 in Category 2 (reasonable)
  - 3 in Category 3 (over-earning)
- Next steps:
  - Contested cases may be initiated by Category 1 providers, or by Staff for Category 3 providers, to request support and/or rate adjustments up or down
  - 2018 EMR+ due September 2019

Questions?

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