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**SENATE BILL 5592**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senators Berkey, Poulsen, Honeyford, Shin, Morton, Kilmer, Stevens, Pridemore, Haugen, Hatfield and Rasmussen

Read first time 01/24/2007. Referred to Committee on Water, Energy & Telecommunications.

1 AN ACT Relating to the modernization of the regulation of  
2 telecommunications; amending RCW 80.24.010; adding a new section to  
3 chapter 80.04 RCW; adding a new section to chapter 80.08 RCW; adding a  
4 new section to chapter 80.12 RCW; adding a new section to chapter 80.16  
5 RCW; adding a new section to chapter 80.20 RCW; adding a new section to  
6 chapter 80.36 RCW; and adding a new chapter to Title 80 RCW.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds that the  
9 competitiveness of the telecommunications marketplace has created  
10 consumer choice and strengthened the state's position as a national  
11 leader in the area of technology services and infrastructure. The  
12 legislature finds that the state's leadership in technology and  
13 communications provides the foundation for economic activity throughout  
14 the whole state and it is the goal of the legislature to extend the  
15 benefits of this activity to as many of the state's citizens as  
16 possible. The legislature further finds that the competitiveness of  
17 telecommunications services makes regulatory modernization necessary to  
18 ensure fair regulatory treatment of telecommunications service  
19 providers who provide similar services.

1 The legislature recognizes that it is vital to achieve regulatory  
2 modernization for telecommunications service providers who are  
3 responding to consumer choice by investing in infrastructure, which  
4 directly benefits consumers and the state. Therefore, it is the intent  
5 of the legislature to maintain and strengthen consumer choice, provide  
6 incentive for increased private investment in technology  
7 infrastructure, and provide regulatory fairness among competitive  
8 telecommunications service providers by modernizing the state's  
9 telecommunications laws.

10 NEW SECTION. **Sec. 2.** A telecommunications company may elect to be  
11 regulated by the commission exclusively under this chapter by filing  
12 written notice with the commission, stating an effective date not  
13 sooner than five days after filing. No provision of any other chapter  
14 of this title applies to a telecommunications company making an  
15 election under this section unless such provision is specifically set  
16 forth in this chapter, and such provisions are as existing on the  
17 effective date of this act.

18 NEW SECTION. **Sec. 3.** The rates, terms, and conditions of an  
19 electing company's services shall not be regulated by the commission  
20 except as specifically set forth in this section.

21 (1) For a period of five years after an election, the rates for  
22 basic telecommunications services, as defined by RCW 80.36.600(6)(b) as  
23 of the filing of an election, shall not be increased by more than one  
24 dollar in any twelve-month period.

25 (a) This limitation does not apply to packaged or bundled offerings  
26 that include basic telecommunications service.

27 (b) Basic telecommunications service shall include mandatory  
28 extended area service in effect for the electing company as of the  
29 filing of its election.

30 (c) Rates for basic telecommunications service shall not be more  
31 than twenty percent higher than the rate charged for such service in  
32 the company's exchange that has the greatest number of basic  
33 telecommunications service lines in service.

34 (2) Notwithstanding this section, any limitation on rate changes  
35 for any service to which an electing company has agreed and which the

1 commission has approved prior to the filing of an election shall apply  
2 according to the terms of such agreement.

3 (3) An electing company that is designated an eligible  
4 telecommunications carrier in this state pursuant to 47 U.S.C. Sec.  
5 214(e) shall not require that basic telecommunications services be  
6 purchased only as part of a package or bundled offering.

7 (4) For a period of two years after the effective date of an  
8 election, an electing company's rates for any telecommunications  
9 services other than basic telecommunications services that would be  
10 subject to regulation by the commission but for the company's election  
11 shall not be more than fifty percent higher than the rate charged for  
12 such service in the company's exchange in which the greatest quantity  
13 of such service is being provided.

14 (5) For a period of not less than one hundred eighty days and not  
15 more than two years from the effective date of its election under this  
16 section, an electing company shall continue to maintain and continue to  
17 file with the commission schedules setting forth the rates, terms, and  
18 conditions of its telecommunications services that would be subject to  
19 regulation by the commission but for the company's election. No more  
20 than thirty days before the withdrawal of such a schedule, or part of  
21 it, the company shall provide each customer of an affected service with  
22 information about the rates, terms, and conditions under which the  
23 service will continue to be provided. If the rates, terms, and  
24 conditions do not change upon withdrawal of the schedule, such rates,  
25 terms, and conditions shall be binding to the same extent as under the  
26 filed schedule. If any of the rates, terms, and conditions do change  
27 upon withdrawal, the company must provide each affected customer with  
28 a reasonable opportunity to decide whether to accept the changed rate,  
29 term, or condition. If a customer does not cancel service within  
30 thirty days after notice of the change is given, the customer will be  
31 deemed to have accepted all the rates, terms, and conditions offered by  
32 the company.

33 (6) Other than the schedules described in subsection (5) of this  
34 section, electing companies shall not file with the commission  
35 contracts for telecommunications services.

36 NEW SECTION. **Sec. 4.** The operations of an electing company shall

1 not be regulated by the commission except as specifically set forth in  
2 this section.

3 (1) An electing company that is designated an eligible  
4 telecommunications carrier in this state pursuant to 47 U.S.C. Sec.  
5 214(e) is subject to RCW 80.36.500 and to competitively neutral rules  
6 of the commission necessary to implement the same.

7 (2) An electing company is subject to RCW 80.36.225 and to  
8 competitively neutral rules of the commission necessary to implement  
9 the same.

10 (3) An electing company is subject to RCW 80.36.390(7) and to  
11 competitively neutral rules of the commission necessary to implement  
12 the same.

13 (4) An electing company that is designated an eligible  
14 telecommunications carrier in this state pursuant to 47 U.S.C. Sec.  
15 214(e) is subject to RCW 80.36.410 through 80.36.475 and to  
16 competitively neutral rules of the commission necessary to implement  
17 the same.

18 (5) An electing company is subject to chapter 80.54 RCW and to  
19 competitively neutral rules of the commission necessary to implement  
20 the same.

21 (6) The following provisions of chapter 80.36 RCW and competitively  
22 neutral rules of the commission necessary to implement the same apply  
23 to the operations of electing companies: RCW 80.36.010, 80.36.020,  
24 80.36.030, 80.36.040, 80.36.050, 80.36.060, 80.36.070, 80.36.145,  
25 80.36.360, 80.36.370, 80.36.400, and 80.36.520.

26 NEW SECTION. **Sec. 5.** The provisions of chapter 80.04 RCW other  
27 than RCW 80.04.080, 80.04.090, 80.04.100, 80.04.270, 80.04.280,  
28 80.04.290, 80.04.300 through 80.04.330, 80.04.350, and 80.04.360 apply  
29 to electing companies, but only to the extent that they are  
30 competitively neutral and consistent and compatible with the authority  
31 of the commission as set forth in this chapter.

32 NEW SECTION. **Sec. 6.** The commission may informally or upon formal  
33 complaint by an affected person resolve disputes concerning an electing  
34 company's adherence to the rates, terms, or conditions of its services  
35 that would be subject to commission regulation but for its election, or  
36 its compliance with applicable commission rules or Washington statutes.

1        NEW SECTION.    **Sec. 7.** The commission is authorized to take  
2 actions, conduct proceedings, and enter orders as to an electing  
3 company as permitted or contemplated for a state commission under the  
4 federal telecommunications act of 1996, P.L. 104-104 (11 Stat. 56).

5        NEW SECTION.    **Sec. 8.** A new section is added to chapter 80.04 RCW  
6 to read as follows:

7        This chapter applies to telecommunications companies electing to  
8 operate under chapter 80.-- RCW (sections 1 through 7 of this act) only  
9 to the extent provided in section 5 of this act.

10       NEW SECTION.    **Sec. 9.** A new section is added to chapter 80.08 RCW  
11 to read as follows:

12       This chapter does not apply to telecommunications companies  
13 electing to operate under chapter 80.-- RCW (sections 1 through 7 of  
14 this act).

15       NEW SECTION.    **Sec. 10.** A new section is added to chapter 80.12 RCW  
16 to read as follows:

17       This chapter does not apply to telecommunications companies  
18 electing to operate under chapter 80.-- RCW (sections 1 through 7 of  
19 this act).

20       NEW SECTION.    **Sec. 11.** A new section is added to chapter 80.16 RCW  
21 to read as follows:

22       This chapter does not apply to telecommunications companies  
23 electing to operate under chapter 80.-- RCW (sections 1 through 7 of  
24 this act).

25       NEW SECTION.    **Sec. 12.** A new section is added to chapter 80.20 RCW  
26 to read as follows:

27       This chapter does not apply to telecommunications companies  
28 electing to operate under chapter 80.-- RCW (sections 1 through 7 of  
29 this act).

30       NEW SECTION.    **Sec. 13.** A new section is added to chapter 80.36 RCW  
31 to read as follows:

1 This chapter applies to telecommunications companies electing to  
2 operate under chapter 80.-- RCW (sections 1 through 7 of this act) only  
3 to the extent provided in section 4 of this act.

4 **Sec. 14.** RCW 80.24.010 and 2003 c 296 s 1 are each amended to read  
5 as follows:

6 (1) Except as set forth in subsection (2) of this section, every  
7 public service company subject to regulation by the commission shall,  
8 on or before the date specified by the commission for filing annual  
9 reports under RCW 80.04.080, file with the commission a statement on  
10 oath showing its gross operating revenue from intrastate operations for  
11 the preceding calendar year or portion thereof and pay to the  
12 commission a fee equal to one-tenth of one percent of the first fifty  
13 thousand dollars of gross operating revenue, plus two-tenths of one  
14 percent of any gross operating revenue in excess of fifty thousand  
15 dollars: PROVIDED, That the commission may, by rule, set minimum fees  
16 that do not exceed the cost of collecting the fees. The commission may  
17 by rule waive any or all of the minimum fee established pursuant to  
18 this section.

19 The percentage rates of gross operating revenue to be paid in any  
20 year may be decreased by the commission for any class of companies  
21 subject to the payment of such fees, by general order entered before  
22 March 1st of such year, and for such purpose such companies shall be  
23 classified as follows:

24 Electrical, gas, water, telecommunications, and irrigation  
25 companies shall constitute class one. Every other company subject to  
26 regulation by the commission, for which regulatory fees are not  
27 otherwise fixed by law shall pay fees as herein provided and shall  
28 constitute additional classes according to kinds of businesses engaged  
29 in.

30 Any payment of the fee imposed by this section made after its due  
31 date shall include a late fee of two percent of the amount due.  
32 Delinquent fees shall accrue interest at the rate of one percent per  
33 month.

34 (2) A telecommunications company electing regulation under chapter  
35 80.-- RCW (sections 1 through 7 of this act) shall pay a regulatory fee  
36 as follows:

1       (a) For the calendar year in which it makes its election and for  
2 the first calendar year after its election, such company shall pay a  
3 fee in the same amount as its fee paid for the year immediately  
4 preceding its election.

5       (b) For the next three calendar years such company shall pay a fee  
6 in the amount of two-thirds of the fee paid under (a) of this  
7 subsection.

8       (c) Thereafter, such company shall pay a fee that is the lesser of  
9 (i) the amount of the fee paid under (b) of this subsection; or (ii)  
10 two-tenths of one percent of any gross operating revenue for basic  
11 telecommunications service provided in this state during such period as  
12 such company is an eligible telecommunications carrier in this state  
13 pursuant to 47 U.S.C. Sec. 214(e).

14       NEW SECTION. Sec. 15. Sections 1 through 7 of this act constitute  
15 a new chapter in Title 80 RCW.

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