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**Technology, Energy & Communications  
Committee**

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**HB 1587**

**Brief Description:** Preserving and advancing communication service and connectivity in the state.

**Sponsors:** Representatives McCoy, Crouse, Morris, Haler, Short and Dahlquist.

**Brief Summary of Bill**

- Allows a local exchange company (LEC) serving two percent or more of the access lines in the state to elect minimal regulation.
- Requires a LEC serving two percent or more of the access lines in the state to reduce its intrastate switched access rates to the level of its interstate switched access rates in 25 percent increments.
- Allows a LEC serving less than two percent of the access lines in the state to elect pricing flexibility.

**Hearing Date:** 2/2/11

**Staff:** Kara Durbin (786-7133).

**Background:**

As telecommunications markets have become more competitive, some flexibility has been provided in the regulation of certain telecommunications companies and services. In 1985 the Utilities and Transportation Commission (UTC) was directed to begin classifying certain telecommunications companies and services as competitive if the services they offer are subject to effective competition.

Competitive Classified Companies or Services

In determining whether a company or service is competitive, the UTC considers factors such as the number and size of competing providers, the extent to which service is offered in the relevant

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market, the ready availability of equivalent services at competitive prices, and other indicators of market power.

A telecommunications company or service may be classified as a competitive telecommunications company by petitioning the UTC for such classification. The UTC may also initiate a petition.

Competitive telecommunications companies or services are subject to minimal regulation. They may file price lists rather than tariff schedules. Price lists become effective sooner than tariffs. The UTC may waive other requirements if it determines that competition will serve the same purpose as regulation. It may waive different regulations for different companies if such different treatment is in the public interest. Reporting requirements are less rigorous than those for non-competitive companies or services.

Prices charged for a competitively classified service must cover the cost of the service. Losses incurred for competitive services cannot be recovered through rates for noncompetitive services.

The UTC may revoke waivers and reclassify a company or service to protect the public interest. The UTC also may investigate prices for competitive services upon complaint.

#### Tariffs

A non-competitive service must be described in a tariff. A tariff is a document that contains the company's rates and terms of services, and a change to a tariff is subject to the review and approval of the UTC.

#### Bundling of Telecommunications Services

A non-competitive telecommunications company may petition the UTC to have packages or bundles of telecommunications services it offers be subject to minimal regulation. The UTC must grant the petition if: (1) each non-competitive service in the package or bundle is readily and separately available to customers at fair, just and reasonable prices; (2) the price of the package or bundle is equal to or greater than the cost for tariffed service plus the cost of any competitive services; and (3) the availability and price of the stand-alone, non-competitive services are displayed in the company's tariff and on its web site consistent with UTC rules.

The UTC may waive any regulatory requirement with respect to packages or bundles of telecommunications services if it finds those requirements are no longer necessary to protect the public interest.

#### Intercarrier Compensation

Intercarrier compensation refers to the charges that one carrier pays to another carrier to originate, transport, and/or terminate telecommunications traffic. Intercarrier compensation payments are governed by a complex system of federal and state rules. One major form of intercarrier compensation is access charges.

Access charges generally apply to calls that begin and end in different local calling areas. Interstate access charges apply to calls that originate and terminate in different states, and intrastate access charges apply to calls that originate and terminate in different local calling areas within the same state. The Federal Communications Commission regulates interstate access

charge rates, while the UTC regulates intrastate access charge rates. Traditionally, interstate access charge rates have been lower than intrastate access rates.

### **Summary of Bill:**

#### Local Exchange Companies Serving Two Percent or More of the Access Lines in the State

##### *Election of Minimal Regulation*

A local exchange company (LEC) serving two percent or more of the access lines in the state may elect minimal regulation. To elect minimal regulation, the LEC may file a "Notice of Minimal Regulation" with the Utilities and Transportation Commission (UTC) and show that it meets the public interest test. If the LEC meets the public interest test, the UTC must approve the election within 60 days.

Election of minimal regulation is deemed to be in the public interest if the LEC demonstrates that: (1) its number of access lines has decreased over the past five years; and (2) the number of access lines served by the company has decreased over the same five year period as a percentage of the population of the zip codes.

A LEC that elects minimal regulation will be subject to the same level of regulation as competitively classified companies, except for basic residential service. With respect to basic residential service, a LEC may not increase its monthly charge above its charge existing in tariff as of July 1, 2010, unless there has been: (1) a change in local calling areas; (2) a change in access charges; or (3) other changes affecting basic residential services. If one or more of these three conditions is met, then an increase may not go into effect unless it is approved by the UTC.

After July 1, 2013, a LEC may increase or decrease its monthly charge for basic residential service if the UTC determines that another company is providing a comparable service in the same exchange served by the LEC. If this determination is made, then basic residential service is subject to minimal regulation.

The UTC may terminate minimal regulation for a specific service if the UTC determines that: (1) the LEC has materially violated the statutes or rules applicable to that service; and (2) revocation of the LEC's pricing flexibility is in the public interest.

The UTC may consider and resolve individual customer complaint for a LEC subject to minimal regulation.

##### *Reduction in Intrastate Access Charges*

A LEC serving two percent or more of the access lines in the state, regardless of whether it elects minimal regulation, must reduce its intrastate switched access rates to the level of its interstate switched access rates in equal 25 percent increments. The first reduction must occur 180 days after the effective date of the bill, with additional 25 percent reductions occurring annually over the next three years.

All originating access minutes of use associated with calls to 1-800 type numbers must be treated as terminating switched access minutes of use for purposes of calculating intrastate switched access compensation.

## Local Exchange Companies Serving Less Than Two Percent of the Access Lines in the State

### *Election of Pricing Flexibility*

A LEC serving less than two percent of the access lines in the state may elect pricing flexibility by filing a "Notice of Election of Pricing Flexibility" with the UTC. If such a notice is filed, the LEC will be transferred to pricing flexibility 30 days after the filing.

A LEC that elects pricing flexibility may change its rates, except for basic residential service, with three days prior notice. Such changes in rates may not be subject to rejection, suspension, or modification by the UTC.

A LEC may increase basic residential service rates with at least 30 days prior notice, unless a petition is signed by 10 percent or more of its subscribers, or 500 subscribers, whichever is less, and this petition is filed with the UTC at least 10 days prior to the increase taking effect.

A LEC that elects pricing flexibility may package or bundle tariffed and non-tariffed services if the tariffed services can be made available to customers at a separately tariffed price.

### *Intrastate Access Charges*

The UTC may not require a LEC serving less than two percent of the access lines to reduce its access charges without the consent of the company, unless a funded universal service program is adopted and implemented that covers these companies.

### Other provisions

The UTC may exercise any authority delegated to it from the Federal Communications Commission under the National Broadband plan or any successor plan, but only to the extent necessary to implement such delegated authority.

Provisions related to the alternative form of regulation (AFOR) process are eliminated. The AFORs process is no longer available.

**Appropriation:** None.

**Fiscal Note:** Requested on January 26, 2011.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.