

HOUSE BILL REPORT

HB 1744

As Reported By House Committee On:
Energy & Utilities

Title: An act relating to streamlined regulation of small telecommunications companies.

Brief Description: Regulating small telecommunications companies.

Sponsors: Representatives Huff, Kessler, Casada and Campbell.

Brief History:

Committee Activity:

Energy & Utilities: 2/14/95, 2/15/95 [DPS].

HOUSE COMMITTEE ON ENERGY & UTILITIES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Casada, Chairman; Crouse, Vice Chairman; Hankins, Vice Chairman; Kessler, Ranking Minority Member; Kremen, Assistant Ranking Minority Member; Chandler; Huff; Mastin; Mielke; Mitchell and Patterson.

Staff: Margaret Allen (786-7110) and Ken Conte (786-7102).

Background: Local exchange companies (LECs) provide local telephone service within their exchange boundaries. Washington currently has 21 LECs, which are regulated by the Washington Utilities and Transportation Commission (WUTC). The smallest 17 companies each serve less than 2 percent of the switched access (telephone) lines in the state.

Annual Reports and Budgets: All LECs, regardless of size and like other utilities whose rates and service are regulated by the WUTC, are required by statute to file detailed annual reports and budgets with the WUTC. The WUTC may require additional information and, after a notice and hearing, may reject any item of a budget. Unless a LEC is making expenditures in response to an emergency, the statutory budget provisions apply. A LEC proceeding with a rejected expenditure may not count that expenditure as an operating expense or as part of the fair value of the company's property used and useful in serving the public, except upon proof the expenditure is used and useful.

The WUTC may adopt budget rules and may exempt companies in whole or in part from those budget rules.

Securities: As a "public service company," a LEC may issue: (1) evidence of interest or ownership such as stocks and stock certificates; and (2) evidence of indebtedness such as bonds and notes. State law specifies the purposes for which these issuances may be used.

Prior to issuing evidence of interest or ownership or evidence of indebtedness, the public service company must file with the WUTC a description of the issuance and its purposes, terms of financing, and a statement as to why the issuance is in the public purpose. The WUTC may require a public service company to account for the disposition of all proceeds of the sale of all such issuances and it may adopt rules and regulations to insure the proper disposition of these proceeds.

Transfers of Property: As with other "public service companies," a LEC may sell, lease, assign or otherwise dispose of all or any part of its franchises, properties or facilities which are necessary in the performance of its duties to the public only with the authorization of the WUTC. No LEC may merge or consolidate any of its franchises, properties or facilities with other public service companies without the authorization of the WUTC. Similarly, no LEC may purchase, acquire, or become the owner of franchises, properties, facilities, or capital stocks or bonds of another public service company without prior authorization of the WUTC. The WUTC may adopt rules and regulations to administer these requirements.

Affiliated Interests: As a "public service company," a LEC may enter into: (1) a contract or arrangement with an affiliated interest for providing such things as management, supervisory construction, engineering, accounting, legal or financial services; or (2) a contract or arrangement with an affiliated interest providing for the sale, lease, or exchange of property only with approval of the WUTC. An affiliated interest is basically a company or person holding 5 percent or more of the voting securities in the company.

Alternative Forms of Regulation: Currently, telecommunications companies are regulated under a "rate of return" system. Under certain circumstances, telecommunications companies can be regulated in ways other than the traditional "rate of return" regulation. For example, a telecommunications company may petition the WUTC to be regulated under an "alternative form of regulation."

A telecommunications company may submit a petition to the WUTC proposing a plan for an alternative form of regulation. Prior to approving the plan, the WUTC must consider a number of factors. These factors include the extent to which the proposed form of regulation will reduce regulatory delay and costs, encourage innovation in services, promote efficiency, enhance the company's ability to respond to

competition, provide fair, just, and reasonable rates for all rate payers, and prevent companies from exercising substantial market power in the absence of competition or regulation. The WUTC also can initiate consideration of an alternative form of regulation for a telecommunications company. A company has 60 days to elect not to proceed with the alternative form of regulation as authorized by the WUTC.

Summary of Substitute Bill: Annual Reports and Budgets: Any LEC which serves less than 2 percent of the access lines in the state (including access lines served by any affiliate of the LEC) is exempt from the detailed annual reporting and budgeting requirements which currently apply to all public service companies. These smaller LECs are not required to submit reports or data to the WUTC except for annual balance sheets and results of operations in Washington State which are separated by jurisdiction. Existing information or reports which are separated by jurisdiction may be sufficient to meet these requirements. In response to customer complaints or on its own, after notice and hearing, the WUTC may establish additional reporting requirements for a specific LEC.

Securities, Transfers of Property, and Affiliated Interests: Any LEC which serves less than 2 percent of the access lines in the state (including access lines served by any affiliate of the LEC) is exempt from authorization and reporting requirements relating to issuance of securities, transfers of property and affiliated interests. In the case of securities, the state of Washington shall not be obligated to pay or guarantee stock, stock certificates, bonds, or other evidence of ownership or indebtedness issued by a LEC.

Alternative Form of Regulation: A group of telecommunications companies may petition the WUTC to establish an alternative form of regulation.

Substitute Bill Compared to Original Bill: The substitute bill clarifies that: (1) the state of Washington may not be obligated to pay or guarantee stock, stock certificates, bonds or other evidence of ownership or indebtedness issued by a local exchange company; (2) the exemptions in the bill do not apply to the substantive rate-making authority of the WUTC (authority over rates, service, valuations, determinations of cost, determinations of fair and reasonable expenditures); and (3) local exchange companies which are exempted from the regular reporting requirements of the WUTC must submit annual balance sheets and results of operations in Washington State which are separated jurisdictionally. Existing information or reports which are separated by jurisdiction may be sufficient to comply with this requirement.

Language authorizing the WUTC to establish an alternative form of regulation by rule and authorizing eligible LECs to participate in that alternative form of regulation with 180 days notice to the WUTC is deleted.

Appropriation: None.

Fiscal Note: Requested on February 9, 1995.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill would reduce reporting requirements without reducing the oversight role of the Washington Utilities and Transportation Commission (WUTC) for ratemaking purposes. The bill would reduce the burden of administrative compliance, and is in the best interest of customers, taxpayers, the WUTC, and local exchange companies. Much of the reporting is not useful and the time spent compiling reports could be put to better use serving customers.

Testimony Against: None.

Testified: (Pro) Terry Vann, Washington Independent Telephone Association; Arne Haynes, Mashell Telecom; Mark Kochlein, Ellensburg Telephone Company; Tara Foreid, Yelm Telephone Company; and Tim Sweeney, Washington Utilities and Transportation Commission. (No position) Bill Garvin, MCI.