
ENGROSSED HOUSE BILL 2881

State of Washington

56th Legislature

2000 Regular Session

By Representatives Crouse, Poulsen and Eickmeyer; by request of Governor Locke

Read first time 01/21/2000. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to new procedures for alternative forms of
2 regulation of telecommunications companies; and amending RCW 80.36.135.

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

4 **Sec. 1.** RCW 80.36.135 and 1995 c 110 s 5 are each amended to read
5 as follows:

6 (1) The legislature declares that:

7 (a) Changes in technology and the structure of the
8 telecommunications industry may produce conditions under which
9 traditional rate of return, rate base regulation of telecommunications
10 companies may not in all cases provide the most efficient and effective
11 means of achieving the public policy goals of this state as declared in
12 RCW 80.36.300, this section, and RCW 80.36.145. The commission should
13 be authorized to employ an alternative form of regulation if that
14 alternative is better suited to achieving those policy goals.

15 (b) Because of the great diversity in the scope and type of
16 services provided by telecommunications companies, alternative
17 regulatory arrangements that meet the varying circumstances of
18 different companies and their ratepayers may be desirable.

1 (2) Subject to the conditions set forth in this chapter and RCW
2 80.04.130, the commission may regulate telecommunications companies
3 subject ((before July 23, 1989,)) to traditional rate of return, rate
4 base regulation by authorizing an alternative form of regulation. The
5 commission may determine the manner and extent of any alternative forms
6 of regulation as may in the public interest be appropriate. In
7 addition to the public policy goals declared in RCW 80.36.300, the
8 commission shall consider, in determining the appropriateness of any
9 proposed alternative form of regulation, whether it will:

10 (a) ~~((Reduce regulatory delay and costs;~~

11 ~~(b) Encourage innovation in services;~~

12 ~~(c) Promote efficiency;~~

13 ~~(d) Facilitate the broad dissemination of technological~~
14 ~~improvements to all classes of ratepayers;~~

15 ~~(e) Enhance the ability of telecommunications companies to respond~~
16 ~~to competition;~~

17 ~~(f) Ensure that telecommunications companies do not have the~~
18 ~~opportunity to exercise substantial market power absent effective~~
19 ~~competition or effective regulatory constraints; and~~

20 ~~(g) Provide fair, just, and reasonable rates for all ratepayers.~~

21 ~~The commission shall make written findings of fact as to each of~~
22 ~~the above stated policy goals in ruling on any proposed alternative~~
23 ~~form of regulation)) Facilitate the broad deployment of technological~~
24 ~~improvements and advanced telecommunications services to underserved~~
25 ~~areas or underserved customer classes;~~

26 (b) Improve the efficiency of the regulatory process;

27 (c) Preserve or enhance the development of effective competition
28 and protect against the exercise of market power during its
29 development;

30 (d) Preserve or enhance service quality and protect against the
31 degradation of the quality or availability of efficient
32 telecommunications services;

33 (e) Provide for rates and charges that are fair, just, reasonable,
34 sufficient, and not unduly discriminatory or preferential; and

35 (f) Not unduly or unreasonably prejudice or disadvantage any
36 particular customer class.

37 (3) A telecommunications company or companies subject to
38 traditional rate of return, rate base regulation may petition the
39 commission to establish an alternative form of regulation. The company

1 or companies shall submit with the petition a plan for an alternative
2 form of regulation. The plan shall contain a proposal for transition
3 to the alternative form of regulation(~~(. The commission shall review~~
4 ~~and may modify or reject the proposed))~~ and the proposed duration of
5 the plan. The plan must also contain a proposal for ensuring adequate
6 carrier-to-carrier service quality, including service quality standards
7 or performance measures for interconnection, and appropriate
8 enforcement or remedial provisions in the event the company fails to
9 meet service quality standards or performance measures. The commission
10 also may initiate consideration of alternative forms of regulation for
11 a company or companies on its own motion. The commission ((may approve
12 the plan or modified plan and authorize its implementation, if it
13 finds, after notice and hearing, that the plan or modified plan:

14 (a) ~~Is in the public interest;~~

15 (b) ~~Is necessary to respond to such changes in technology and the~~
16 ~~structure of the intrastate telecommunications industry as are in fact~~
17 ~~occurring;~~

18 (c) ~~Is better suited to achieving the policy goals set forth in RCW~~
19 ~~80.36.300 and this section than the traditional rate of return, rate~~
20 ~~base regulation;~~

21 (d) ~~Ensures that ratepayers will benefit from any efficiency gains~~
22 ~~and cost savings arising out of the regulatory change and will afford~~
23 ~~ratepayers the opportunity to benefit from improvements in productivity~~
24 ~~due to technological change;~~

25 (e) ~~Will not result in a degradation of the quality or availability~~
26 ~~of efficient telecommunications services;~~

27 (f) ~~Will produce fair, just, and reasonable rates for~~
28 ~~telecommunications services; and~~

29 (g) ~~Will not unduly or unreasonably prejudice or disadvantage any~~
30 ~~particular customer class.)), after notice and hearing, shall issue an~~
31 order accepting, modifying, or rejecting the plan within nine months
32 after the petition or motion is filed, unless extended by the
33 commission for good cause. The commission shall order implementation
34 of the alternative plan of regulation unless it finds that, on balance,
35 an alternative plan as proposed or modified fails to meet the
36 considerations stated in subsection (2) of this section.

37 (4) Not later than sixty days from the entry of the commission's
38 order, the company or companies affected by the order may file with the
39 commission an election not to proceed with the alternative form of

1 regulation as authorized by the commission. (~~(If a company elects to~~
2 ~~appeal to the courts the final order of the commission authorizing an~~
3 ~~alternative form of regulation, it shall not change its election to~~
4 ~~proceed or not proceed after the appeal is concluded. The pendency of~~
5 ~~a petition by a company for judicial review of the final order shall~~
6 ~~not serve to extend the sixty day period.))~~

7 (5) The commission may waive such regulatory requirements under
8 Title 80 RCW for a telecommunications company subject to an alternative
9 form of regulation as may be appropriate to facilitate the
10 implementation of this section(~~(: PROVIDED, That the commission may~~
11 ~~not grant the authority to price list services except as provided in~~
12 ~~RCW 80.36.300 through 80.36.370, the regulatory flexibility act, nor~~
13 ~~may it waive any statutory requirements or grants of legal rights to~~
14 ~~any person contained in this chapter and chapter 80.04 RCW as amended,~~
15 ~~except as otherwise expressly provided)). However, the commission may
16 not waive any grant of legal rights to any person contained in this
17 chapter and chapter 80.04 RCW. The commission may waive different
18 regulatory requirements for different companies or services if such
19 different treatment is in the public interest.~~

20 (6) Upon petition by (~~(any person, or upon its own motion))~~ the
21 company, and after notice and hearing, the commission may rescind ((its
22 approval of)) or modify an alternative form of regulation ((if, after
23 notice and hearing, it finds that the conditions set forth in
24 subsection (3) of this section can no longer be satisfied. The
25 commission or any person may file a complaint alleging that the rates
26 charged by a telecommunications company under an alternative form of
27 regulation are unfair, unjust, unreasonable, unduly discriminatory, or
28 are otherwise not consistent with the requirements of chapter 101, Laws
29 of 1989: PROVIDED, That the complainant shall bear the burden of
30 proving the allegations in the complaint)) in the manner requested by
31 the company.

32 (7) The commission or any person may file a complaint under RCW
33 80.04.110 alleging that a telecommunications company under an
34 alternative form of regulation has not complied with the terms and
35 conditions set forth in the alternative form of regulation. The
36 complainant shall bear the burden of proving the allegations in the
37 complaint.

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