

2 SHB 1528 - S COMM AMD

3 By Committee on Economic Development & Telecommunications

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 80.36.320 and 1998 c 337 s 5 are each amended to read
8 as follows:

9 (1) The commission shall classify a telecommunications company as
10 a competitive telecommunications company if the services it offers are
11 subject to effective competition. Effective competition means that the
12 company's customers have reasonably available alternatives and that the
13 company does not have a significant captive customer base. In
14 determining whether a company is competitive, factors the commission
15 shall consider include but are not limited to:

16 (a) The number and sizes of alternative providers of service;

17 (b) The extent to which services are available from alternative
18 providers in the relevant market;

19 (c) The ability of alternative providers to make functionally
20 equivalent or substitute services readily available at competitive
21 rates, terms, and conditions; and

22 (d) Other indicators of market power which may include market
23 share, growth in market share, ease of entry, and the affiliation of
24 providers of services.

25 The commission shall conduct the initial classification and any
26 subsequent review of the classification in accordance with such
27 procedures as the commission may establish by rule.

28 ~~(2) ((Competitive telecommunications companies shall be subject to~~
29 ~~minimal regulation. Minimal regulation means that competitive~~
30 ~~telecommunications companies may file, instead of tariffs, price lists~~
31 ~~that shall be effective after ten days' notice to the commission and~~
32 ~~customers. The commission shall prescribe the form of notice. The~~
33 ~~commission may also waive other regulatory requirements under this~~
34 ~~title for competitive telecommunications companies when it determines~~
35 ~~that competition will serve the same purposes as public interest~~
36 ~~regulation. The commission may waive different regulatory requirements~~

1 ~~for different companies if such different treatment is in the public~~
2 ~~interest.))~~

3 A competitive telecommunications company shall at a minimum:

4 (a) Keep its accounts according to regulations as determined by the
5 commission;

6 (b) File financial reports with the commission as required by the
7 commission and in a form and at times prescribed by the commission;

8 (c) ~~((Keep on file at the commission))~~ Maintain such current price
9 lists and service standards as the commission may require; and

10 (d) Cooperate with commission investigations of customer
11 complaints.

12 (3) ~~((When a telecommunications company has demonstrated that the~~
13 ~~equal access requirements ordered by the federal district court in the~~
14 ~~case of U.S. v. AT&T, 552 F. Supp. 131 (1982), or in supplemental~~
15 ~~orders, have been met, the commission shall review the classification~~
16 ~~of telecommunications companies providing inter-LATA interexchange~~
17 ~~services. At that time, the commission shall classify all such~~
18 ~~companies as competitive telecommunications companies unless it finds~~
19 ~~that effective competition, as defined in subsection (1) of this~~
20 ~~section, does not then exist.~~

21 ~~(4))~~) The commission may revoke any waivers it grants and may
22 reclassify any competitive telecommunications company if the revocation
23 or reclassification would protect the public interest.

24 ~~((5) The commission may waive the requirements of RCW 80.36.170~~
25 ~~and 80.36.180 in whole or in part for a competitive telecommunications~~
26 ~~company if it finds that competition will serve the same purpose and~~
27 ~~protect the public interest.))~~

28 **Sec. 2.** RCW 80.36.330 and 1998 c 337 s 6 are each amended to read
29 as follows:

30 (1) The commission may classify a telecommunications service
31 provided by a telecommunications company as a competitive
32 telecommunications service if the service is subject to effective
33 competition. Effective competition means that customers of the service
34 have reasonably available alternatives and that the service is not
35 provided to a significant captive customer base. In determining
36 whether a service is competitive, factors the commission shall consider
37 include but are not limited to:

38 (a) The number and size of alternative providers of services;

1 (b) The extent to which services are available from alternative
2 providers in the relevant market;

3 (c) The ability of alternative providers to make functionally
4 equivalent or substitute services readily available at competitive
5 rates, terms, and conditions; and

6 (d) Other indicators of market power, which may include market
7 share, growth in market share, ease of entry, and the affiliation of
8 providers of services.

9 ~~(2) ((When the commission finds that a telecommunications company
10 has demonstrated that a telecommunications service is competitive, the
11 commission may permit the service to be provided under a price list
12 effective on ten days notice to the commission and customers. The
13 commission shall prescribe the form of notice. The commission may
14 adopt procedural rules necessary to implement this section.~~

15 ~~(3))~~ Prices or rates charged for ~~((competitive))~~
16 telecommunications services classified as competitive under this
17 section shall cover their cost. The commission shall determine proper
18 cost standards to implement this section, provided that in making any
19 assignment of costs or allocating any revenue requirement, the
20 commission shall act to preserve affordable universal
21 telecommunications service and shall include the price charged to other
22 telecommunications carriers for essential functions.

23 ~~((4))~~ (3) The commission may investigate prices for
24 ~~((competitive))~~ telecommunications services classified as competitive
25 under this section upon complaint. In any complaint proceeding
26 initiated by the commission, the telecommunications company providing
27 the service shall bear the burden of proving that the prices charged
28 cover cost, and are fair, just, and reasonable.

29 ~~((5))~~ (4) Telecommunications companies shall provide the
30 commission with all data it deems necessary to implement this section.

31 ~~((6))~~ (5) No losses incurred by a telecommunications company in
32 the provision of ~~((competitive))~~ telecommunications services classified
33 as competitive under this section may be recovered through rates for
34 noncompetitive services. The commission may order refunds or credits
35 to any class of subscribers to a noncompetitive telecommunications
36 service which has paid excessive rates because of below cost pricing of
37 competitive telecommunications services.

1 (~~(7)~~) (6) The commission may reclassify any (~~competitive~~)
2 telecommunications service classified as competitive under this section
3 if reclassification would protect the public interest.

4 (~~(8) The commission may waive the requirements of RCW 80.36.170~~
5 ~~and 80.36.180 in whole or in part for a service classified as~~
6 ~~competitive if it finds that competition will serve the same purpose~~
7 ~~and protect the public interest.))~~

8 NEW SECTION. Sec. 3. A new section is added to chapter 80.36 RCW
9 to read as follows:

10 (1) The definitions in this subsection apply throughout this
11 section unless the context clearly requires otherwise.

12 (a) "Competitive telecommunications service" includes any service
13 provided by a company classified as competitive under RCW 80.36.320 and
14 any service classified as competitive under RCW 80.36.330.

15 (b) "Price list" means a written offer containing the prices,
16 terms, and conditions under which a competitive telecommunications
17 service is offered.

18 (2) Competitive telecommunications services shall be subject to
19 minimal regulation as provided for in this section.

20 (a) The commission shall waive the application to competitive
21 telecommunications service of any regulatory requirement under this
22 title, except RCW 80.36.320 and 80.36.330 and this section, if it
23 determines that competition will serve the same purposes as public
24 interest regulation. The commission may waive different regulatory
25 requirements for different types of service or different types of
26 companies if the treatment is in the public interest and does not
27 result in unfair competitive advantage.

28 (b) The commission may permit or require that telecommunications
29 companies maintain publicly accessible price lists or file price lists
30 with the commission. The commission may establish different
31 requirements for different companies or services if such different
32 treatment is in the public interest and does not result in unfair
33 competitive advantage. However, regardless of whether price lists are
34 filed with the commission, no telecommunications company may impose
35 mandatory local measured telecommunications service that is
36 inconsistent with the provisions of RCW 80.04.130(3).

37 (c) Each telecommunications company shall notify customers of any
38 change in the prices, terms, or conditions under which any competitive

1 telecommunications service is offered or provided. The commission may
2 prescribe the form, manner, and timing of the notice, except that for
3 changes in presubscribed local exchange, local toll, and long-distance
4 service, telecommunications companies must provide written notice to
5 each affected customer at least ten days prior to the effective date of
6 any price increase or other change in a material term or condition.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.36 RCW
8 to read as follows:

9 The commission, after a process of public participation, shall
10 report to the appropriate committees of the legislature by December 1,
11 2001, on the following issues related to implementing sections 1
12 through 3 of this act:

13 (1) An update on the development of competitive telecommunications
14 services in the Washington marketplace, including differences by
15 geographic areas, customer classes, and types of services;

16 (2) A plan for providing consumers with a meaningful way to track
17 and compare competitive telecommunications services, with emphasis on
18 improving consumers' ability to make informed choices among alternative
19 providers; and

20 (3) The standards the commission applies to determine whether
21 different regulatory treatment authorized under section 3(2)(a) of this
22 act is in the public interest and does not result in unfair competitive
23 advantage."

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27 On page 1, line 1 of the title, after "telecommunications;" strike
28 the remainder of the title and insert "amending RCW 80.36.320 and
29 80.36.330; and adding new sections to chapter 80.36 RCW."

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