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HOUSE BILL 1744

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State of Washington                      54th Legislature                      1995 Regular Session

By Representatives Huff, Kessler, Casada and Campbell

Read first time 02/07/95. Referred to Committee on Energy & Utilities.

1            AN    ACT    Relating   to   streamlined   regulation   of   small  
2   telecommunications   companies;   amending   RCW   80.36.135;   adding   a   new  
3   section   to   chapter   80.04   RCW;   adding   a   new   section   to   chapter   80.08  
4   RCW;   adding   a   new   section   to   chapter   80.12   RCW;   and   adding   a   new  
5   section   to   chapter   80.16   RCW.

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

7            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 80.04 RCW  
8   to read as follows:

9            (1) The following do not apply to a local exchange company that  
10   serves less than two percent of the access lines in the state of  
11   Washington:    RCW 80.04.080, 80.04.300 through 80.04.330, and chapters  
12   80.08, 80.12, and 80.16 RCW.    For purposes of this subsection, the  
13   number of access lines served by a local exchange company includes the  
14   number of access lines served in this state by any affiliate of that  
15   local exchange company.

16            (2) Any local exchange company for which an exemption is provided  
17   under this section shall not be required to file reports or data with  
18   the commission, except each such company shall file with the commission  
19   an annual report that consists of a copy of its income statement and

1 balance sheet. This subsection shall not be applied to exempt a local  
2 exchange company from an obligation to respond to data requests in an  
3 adjudicative proceeding in which it is a party.

4 (3) The commission may, in response to customer complaints or on  
5 its own motion and after notice and hearing, establish additional  
6 reporting requirements for a specific local exchange company.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.08 RCW  
8 to read as follows:

9 This chapter does not apply to a local exchange company under  
10 section 1(1) of this act.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.12 RCW  
12 to read as follows:

13 This chapter does not apply to a local exchange company under  
14 section 1(1) of this act.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.16 RCW  
16 to read as follows:

17 This chapter does not apply to a local exchange company under  
18 section 1(1) of this act.

19 **Sec. 5.** RCW 80.36.135 and 1989 c 101 s 1 are each amended to read  
20 as follows:

21 (1) The legislature declares that:

22 (a) Changes in technology and the structure of the  
23 telecommunications industry may produce conditions under which  
24 traditional rate of return, rate base regulation of telecommunications  
25 companies may not in all cases provide the most efficient and effective  
26 means of achieving the public policy goals of this state as declared in  
27 RCW 80.36.300, this section, and RCW 80.36.145. The commission should  
28 be authorized to employ an alternative form of regulation if that  
29 alternative is better suited to achieving those policy goals.

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

34 (2) Subject to the conditions set forth in this chapter and RCW  
35 80.04.130, the commission may regulate telecommunications companies

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

8 (a) Reduce regulatory delay and costs;

9 (b) Encourage innovation in services;

10 (c) Promote efficiency;

11 (d) Facilitate the broad dissemination of technological  
12 improvements to all classes of ratepayers;

13 (e) Enhance the ability of telecommunications companies to respond  
14 to competition;

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

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

19 The commission shall make written findings of fact as to each of  
20 the above-stated policy goals in ruling on any proposed alternative  
21 form of regulation.

22 (3) A telecommunications company or companies subject to  
23 traditional rate of return, rate base regulation may petition the  
24 commission to (~~regulate the company under~~) establish an alternative  
25 form of regulation. The company or companies shall submit with (~~its~~)  
26 the petition (~~its~~) a plan for an alternative form of regulation. The  
27 plan shall contain (~~the company's~~) a proposal for transition to the  
28 alternative form of regulation. The commission shall review and may  
29 modify or reject the (~~company's~~) proposed plan. The commission also  
30 may initiate consideration of alternative forms of regulation for a  
31 company or companies on its own motion. The commission may approve the  
32 plan or modified plan and authorize its implementation, if it finds,  
33 after notice and hearing, that the plan or modified plan:

34 (a) Is in the public interest;

35 (b) Is necessary to respond to such changes in technology and the  
36 structure of the intrastate telecommunications industry as are in fact  
37 occurring;

1 (c) Is better suited to achieving the policy goals set forth in RCW  
2 80.36.300 and this section than the traditional rate of return, rate  
3 base regulation;

4 (d) Ensures that ratepayers will benefit from any efficiency gains  
5 and cost savings arising out of the regulatory change and will afford  
6 ratepayers the opportunity to benefit from improvements in productivity  
7 due to technological change;

8 (e) Will not result in a degradation of the quality or availability  
9 of efficient telecommunications services;

10 (f) Will produce fair, just, and reasonable rates for  
11 telecommunications services; and

12 (g) Will not unduly or unreasonably prejudice or disadvantage any  
13 particular customer class.

14 (4) Not later than sixty days from the entry of the commission's  
15 order, the company or companies affected by the order may file with the  
16 commission an election not to proceed with the alternative form of  
17 regulation as authorized by the commission. If ~~((the))~~ a company  
18 elects to appeal to the courts the final order of the commission  
19 authorizing an alternative form of regulation, it shall not change its  
20 election to proceed or not proceed after the appeal is concluded. The  
21 pendency of a petition by ~~((the))~~ a company for judicial review of the  
22 final order shall not serve to extend the sixty-day period.

23 (5) The commission may, by rule, establish an alternative form of  
24 regulation for a class of telecommunications companies subject to  
25 traditional rate of return, rate base regulation. If an alternative  
26 form of regulation is established under this subsection, each  
27 telecommunications company in the class established by the commission  
28 may elect that alternative form of regulation upon one hundred eighty  
29 days notice to the commission.

30 (6) The commission may waive such regulatory requirements under  
31 Title 80 RCW for a telecommunications company subject to an alternative  
32 form of regulation as may be appropriate to facilitate the  
33 implementation of this section: PROVIDED, That the commission may not  
34 grant the authority to price list services except as provided in RCW  
35 80.36.300 through 80.36.370, the regulatory flexibility act, nor may it  
36 waive any statutory requirements or grants of legal rights to any  
37 person contained in this chapter and chapter 80.04 RCW as amended,  
38 except as otherwise expressly provided. The commission may waive

1 different regulatory requirements for different companies or services  
2 if such different treatment is in the public interest.

3       (~~(6)~~) (7) Upon petition by any person, or upon its own motion,  
4 the commission may rescind its approval of an alternative form of  
5 regulation if, after notice and hearing, it finds that the conditions  
6 set forth in subsection (3) of this section can no longer be satisfied.  
7 The commission or any person may file a complaint alleging that the  
8 rates charged by a telecommunications company under an alternative form  
9 of regulation are unfair, unjust, unreasonable, unduly discriminatory,  
10 or are otherwise not consistent with the requirements of this act:  
11 PROVIDED, That the complainant shall bear the burden of proving the  
12 allegations in the complaint.

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