

2 **SB 6677** - S AMD - 092
3 By Senator Brown

4 ADOPTED 2/11/00

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

7 "Sec. 1. RCW 80.36.135 and 1995 c 110 s 5 are each amended to read
8 as follows:

9 (1) The legislature declares that:

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

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

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

31 (a) ((Reduce regulatory delay and costs;))
32 (b) Encourage innovation in services;
33 (c) Promote efficiency;
34 (d) Facilitate the broad dissemination of technological
35 improvements to all classes of ratepayers;

1 (e) Enhance the ability of telecommunications companies to respond
2 to competition;

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

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

7 The commission shall make written findings of fact as to each of
8 the above-stated policy goals in ruling on any proposed alternative
9 form of regulation)) Facilitate the broad deployment of technological
10 improvements and advanced telecommunications services to underserved
11 areas or underserved customer classes;

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

13 (c) Preserve or enhance the development of effective competition
14 and protect against the exercise of market power during its
15 development;

16 (d) Preserve or enhance service quality and protect against the
17 degradation of the quality or availability of efficient
18 telecommunications services;

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

21 (f) Not unduly or unreasonably prejudice or disadvantage any
22 particular customer class.

23 (3) A telecommunications company or companies subject to
24 traditional rate of return, rate base regulation may petition the
25 commission to establish an alternative form of regulation. The company
26 or companies shall submit with the petition a plan for an alternative
27 form of regulation((. The commission shall review
28 and may modify or reject the proposed)) and the proposed duration of
29 the plan. The plan must also contain a proposal for ensuring adequate
30 carrier-to-carrier service quality, including service quality standards
31 or performance measures for interconnection, and appropriate
32 enforcement or remedial provisions in the event the company fails to
33 meet service quality standards or performance measures. The commission
34 also may initiate consideration of alternative forms of regulation for
35 a company or companies on its own motion. The commission ((may approve
36 the plan or modified plan and authorize its implementation, if it
37 finds, after notice and hearing, that the plan or modified plan:

39 (a) Is in the public interest;

1 (b) Is necessary to respond to such changes in technology and the
2 structure of the intrastate telecommunications industry as are in fact
3 occurring;

4 (c) Is better suited to achieving the policy goals set forth in RCW
5 80.36.300 and this section than the traditional rate of return, rate
6 base regulation;

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

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

13 (f) Will produce fair, just, and reasonable rates for
14 telecommunications services; and

15 (g) Will not unduly or unreasonably prejudice or disadvantage any
16 particular customer class.)), after notice and hearing, shall issue an
17 order accepting, modifying, or rejecting the plan within six months
18 after the petition or motion is filed, unless extended by the
19 commission for good cause. The commission shall order implementation
20 of the alternative plan of regulation unless it finds that, on balance,
21 an alternative plan as proposed or modified fails to meet the
22 considerations stated in subsection (2) of this section.

23 (4) Not later than sixty days from the entry of the commission's
24 order, the company or companies affected by the order may file with the
25 commission an election not to proceed with the alternative form of
26 regulation as authorized by the commission. ((If a company elects to
27 appeal to the courts the final order of the commission authorizing an
28 alternative form of regulation, it shall not change its election to
29 proceed or not proceed after the appeal is concluded. The pendency of
30 a petition by a company for judicial review of the final order shall
31 not serve to extend the sixty day period.))

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

1 except as otherwise expressly provided)). However, the commission may
2 not waive any grant of legal rights to any person contained in this
3 chapter and chapter 80.04 RCW. The commission may waive different
4 regulatory requirements for different companies or services if such
5 different treatment is in the public interest.

6 (6) Upon petition by ((any person, or upon its own motion)) the
7 company, and after notice and hearing, the commission may rescind ((its
8 approval of)) or modify an alternative form of regulation ((if, after
9 notice and hearing, it finds that the conditions set forth in
10 subsection (3) of this section can no longer be satisfied. The
11 commission or any person may file a complaint alleging that the rates
12 charged by a telecommunications company under an alternative form of
13 regulation are unfair, unjust, unreasonable, unduly discriminatory, or
14 are otherwise not consistent with the requirements of chapter 101, Laws
15 of 1989: PROVIDED, That the complainant shall bear the burden of
16 proving the allegations in the complaint)) in the manner requested by
17 the company.

18 (7) This section does not limit the right of the commission or any
19 person to file a complaint against a telecommunications company under
20 the provisions of RCW 80.04.110 alleging a violation of the rates,
21 terms, or conditions of an alternative form of regulation approved
22 under this section. Notwithstanding the requirement of RCW
23 80.04.110(1), a complaint may be entertained by the commission as to
24 the reasonableness of the schedule of the rates or charges of any
25 telecommunications company subject to an alternative form of regulation
26 approved under this section upon petition by any customer of the
27 company. The complainant shall bear the burden of proving the
28 allegation in any such complaint."

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32 On page 1, line 2 of the title, after "companies;" strike the
33 remainder of the title and insert "and amending RCW 80.36.135."

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