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HOUSE BILL 1772

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State of Washington                      56th Legislature                      1999 Regular Session

By Representatives DeBolt, Crouse and Morris

Read first time . Referred to Committee on .

1            AN ACT Relating to rural telecommunications regulatory efficiency;  
2 adding new sections to chapter 80.36 RCW; and creating a new section.

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

4            NEW SECTION.    **Sec. 1.**    The purpose of this act is to continue  
5 actions that have been taken in recent years at the national and state  
6 levels to promote competition in telecommunications and preserve and  
7 advance universal service. It is also the purpose of this act to  
8 promote continued investment in telecommunications infrastructure  
9 within the state of Washington, and to reduce the cost and extent of  
10 regulatory oversight of telecommunications firms operating in the state  
11 of Washington.

12           NEW SECTION.    **Sec. 2.**    The definitions in this section apply  
13 throughout sections 2 through 6 of this act unless the context clearly  
14 requires otherwise.

15           (1) "Access service" means the provision of communications between  
16 a customer's premises and an interexchange carrier's point of  
17 interconnection with a local carrier's network for the completion of

1 end user calls to the public switched network for the origination or  
2 termination of interexchange long distance traffic.

3 (2) "Basic local exchange service" means the following services:

4 (a) Single party service;

5 (b) Voice grade access to the public switched network;

6 (c) Flat rate residential local service and business local service;

7 (d) Dual tone multifrequency signaling (touch-tone);

8 (e) Access to emergency services (911);

9 (f) Access to operator services;

10 (g) Access to interexchange services;

11 (h) Access to directory assistance; and

12 (i) Toll limitation services.

13 This definition may be amended from time to time by the commission  
14 by rule. However, no additional definition shall be added unless the  
15 commission finds that such a service is subscribed to by a majority of  
16 customers in urban areas and is consistent with the public interest.  
17 The cost to provide any additional service added to the definition set  
18 forth in this subsection shall be provided under the fund.

19 (3) "Federal act" means the communications act of 1934 (47 U.S.C.  
20 151 et seq.), as amended.

21 (4) "Rural telephone company" means a local exchange carrier to the  
22 extent it qualifies as a rural telephone company as defined in the  
23 federal act.

24 NEW SECTION. **Sec. 3.** (1) As to any incumbent rural telephone  
25 company that has filed notice in accordance with section 4 of this act,  
26 or any competitive local exchange carrier, the commission shall not:

27 (a) Require the filing of any financial report, statement, or other  
28 document for the purpose of reviewing, monitoring, or regulating rate  
29 base, earnings, or rates of return; or

30 (b) Conduct any investigation of rate base, earnings, or rates of  
31 return.

32 (2) Consistent with the policy of telecommunications competition  
33 that is implemented in sections 2 through 6 of this act, other than the  
34 commission's adoption of rules required by sections 2 through 6 of this  
35 act, the commission shall adopt no new rule that increases regulatory  
36 burdens on telecommunications service providers, except upon a showing  
37 that the benefits of such a rule are clear and demonstrable and  
38 substantially exceed the cost of compliance by the affected

1 telecommunications service providers. In determining the cost of  
2 compliance, the commission shall accept as prima facie correct the  
3 estimates of cost of compliance submitted by the affected  
4 telecommunications service providers.

5 (3) Not later than one hundred eighty days after the effective date  
6 of this section, the commission shall conduct a rule-making proceeding  
7 to identify and repeal all rules relating to the provision of  
8 telecommunications service that are inconsistent with, have been  
9 rendered unnecessary by, or have been superseded by either sections 2  
10 through 6 of this act or the federal act.

11 NEW SECTION. **Sec. 4.** (1) Any rural telephone companies that file:  
12 (a) An infrastructure development plan that meets the requirements of  
13 section 5 of this act; and (b) notice with the commission of an  
14 election to be regulated in accordance with the provisions of this  
15 section, are authorized to determine and account for its revenues and  
16 expenses, including depreciation expenses, under generally accepted  
17 accounting principles, and, except as provided in this section, shall  
18 be subject to regulation only in accordance with this section and shall  
19 not be subject to any rate review or rate of return regulation by the  
20 commission. Any company making this election shall file rate lists for  
21 its telecommunications services, which rates shall be effective upon  
22 filing, except the rates for basic local exchange services and switched  
23 access services, which rates shall be effective upon compliance and in  
24 accordance with the procedures in this section.

25 (2) On the effective date of an election under this section, the  
26 tariffed rates of a company electing to be subject to the provisions of  
27 this section are deemed fair, just, and reasonable and shall continue  
28 to be deemed fair, just, and reasonable as long as any increases in the  
29 company's tariffed rates are in accordance with the provisions of this  
30 section.

31 (3) The company may increase its basic local exchange service rates  
32 after sixty days' notice to all affected subscribers. Rates for basic  
33 local exchange services may be reduced and be effective immediately  
34 upon filing or at such later time specified in such filing. Notice by  
35 the company to its subscribers shall be by regular mail and may be  
36 included in regular subscriber billings and shall include the  
37 following:

1 (a) A schedule of the proposed basic local exchange service rate  
2 change;

3 (b) The effective date of the proposed basic local exchange service  
4 rate change; and

5 (c) An explanation of the right of the subscriber to petition the  
6 commission for a public hearing on the rate increase and the procedure  
7 necessary to petition.

8 (4) The subscriber petitions provided for in this section shall  
9 contain the name, address, telephone number, and signature of each  
10 subscriber signing the petition and a description of the relief sought  
11 and the facts and basis for the petition. Only the subscriber in whose  
12 name the telecommunications service is listed shall be counted as a  
13 petitioner, and a subscriber with multiple telecommunications service  
14 lines is counted as a single petitioner. Every signature must be dated  
15 and shall have been affixed to the petition within sixty days preceding  
16 its filing with the commission.

17 (5) The commission has the authority to review basic local exchange  
18 service rates set by the company only upon a formal petition that  
19 complies with subsection (4) of this section and that is signed by at  
20 least fifteen percent of all affected subscribers. If a proper  
21 petition is presented to the commission within sixty days after the  
22 date of notice of the rate change was sent to affected subscribers, the  
23 commission shall accept and file the petition and, upon reasonable  
24 notice, may suspend the rates and charges at issue during the pendency  
25 of the proceedings and reinstate the rates and charges previously in  
26 effect and shall hold and complete a hearing on the issue within ninety  
27 days after filing to determine if the rates as proposed are just and  
28 reasonable. The commission may, within sixty days after close of the  
29 hearing, enter an order adjusting the rates and charges at issue,  
30 except that the commission may not set any rate or charge below the  
31 basic local exchange service rates in effect at the time the new rate  
32 at issue was proposed. A company subject to this section shall not  
33 increase its rates without the approval of the commission for six  
34 months after the date the commission enters such an order. If the  
35 commission fails to enter any order within sixty days after the close  
36 of the hearing, the petition shall be deemed denied and the rates and  
37 charges shall be deemed approved for all purposes, including the  
38 purposes of appeal.

1 (6) The company may withdraw its proposed increase in basic local  
2 exchange service rates at any time.

3 (7) A company subject to this section may at any time file an  
4 application with the commission requesting the commission to prescribe  
5 just and reasonable rates for the company. Any rate so set may  
6 thereafter be adjusted as provided in this section.

7 (8) Nothing in this section shall restrict any customer's right to  
8 complain to the commission regarding quality of service or the  
9 commission's authority to enforce quality of service rules and  
10 standards that are equally imposed on all telecommunications providers  
11 who qualify for eligible telecommunications carrier status.

12 (9) The commission may, on its own motion, review basic local  
13 exchange service rates of any company subject to this section if the  
14 company has increased these rates by more than the greater of fifteen  
15 percent or two dollars per access line per month within any consecutive  
16 twelve-month period, excluding rate increases under subsection (14) of  
17 this section. The commission shall hold and complete a hearing on such  
18 rates within ninety days after first giving notice of the hearing to  
19 the company to determine if the rates as proposed are just and  
20 reasonable. The notice of hearing must be given to the company within  
21 ninety days of the date of an increase which itself, or cumulative with  
22 other increases, exceeds the threshold of fifteen percent or two  
23 dollars per access line per month within any consecutive twelve-month  
24 period. The commission may, within sixty days after close of the  
25 hearing, enter an order adjusting the rates and charges at issue,  
26 except that the commission may not require the company to set any rate  
27 or charge below the greater of the rates in effect at the time of the  
28 filing of the increase or the actual cost of providing such service as  
29 established by evidence received at the hearing. In such an order, the  
30 commission may order a refund of amounts collected in excess of the  
31 rates and charges as approved at the hearing which may be paid as a  
32 credit against billings for future services. If the commission fails  
33 to enter any order within sixty days after the close of the hearing,  
34 the rates and charges shall be deemed approved for all purposes,  
35 including for purposes of appeal.

36 (10) For purposes of this section, the commission may not require  
37 a company that is subject to this section to set its rates below the  
38 actual cost of the company providing the service. The actual cost  
39 shall, if requested by the company, be determined to include a ratable

1 portion of administrative expenses and overhead incurred by the company  
2 in its operations, the company's established depreciation rates, and  
3 the appropriate amortization of previously deferred accounting costs.

4 (11) No rural telephone company subject to this section may change  
5 its basic local exchange service rates within ninety days after entry  
6 of a final order adjusting the rate under subsections (5) and (9) of  
7 this section.

8 (12) Notwithstanding the provisions of this section, if another  
9 telecommunications provider offers basic local exchange service or  
10 switched access service within a local exchange area of the company  
11 subject to this section, the company that is subject to this section  
12 may determine its rates for those service or services within the  
13 exchange or exchanges in which another telecommunications provider is  
14 providing the service or services, in the same manner that it  
15 determines its rates for other services under subsection (1) of this  
16 section.

17 (13) A rural telephone company electing to be regulated in  
18 accordance with this section may package any of its services with any  
19 other service it or its affiliates offer, with or without a discount,  
20 provided that basic local exchange services and switched access  
21 services may be purchased separately at the rates that are established  
22 in accordance with this section.

23 (14) A rural telephone company electing to be regulated in  
24 accordance with this section shall commit in its notice of election to  
25 the commission not to increase rates for basic local exchange service  
26 for two years from the date of election except for increases to an  
27 affordability benchmark established by the commission for universal  
28 service or for cost shifts mandated by federal or state governments or  
29 agencies or for costs imposed or required to be incurred by federal,  
30 state, or local governments or agencies, such as local number  
31 portability.

32 (15) A rural telephone company may terminate its election under  
33 this section on ninety days' written notice to the commission.

34 NEW SECTION. **Sec. 5.** (1) Each rural telephone company electing to  
35 be regulated under section 4 of this act shall file a network  
36 infrastructure plan with the commission at the time it files notice of  
37 its election. That plan must include a schedule for the deployment of  
38 advanced service capabilities by December 31, 2003. As used in

1 sections 2 through 6 of this act, "advanced service" means the  
2 deployment of integrated services digital network (ISDN) or its  
3 technological equivalent or other broad band facilities. These  
4 facilities and services need only be deployed upon a firm customer  
5 order for the service. The plan must include a target for the company  
6 to have facilities available to provide enhanced universal service to  
7 at least fifty percent of the customers served by the company.  
8 However, if the density of customers served is less than five access  
9 lines per square mile in a wire center, the plan may exclude that wire  
10 center.

11 (2) As an alternative, a company's infrastructure deployment plan  
12 may include a commitment to provide investment for capital projects at  
13 a minimum level of at least eighty percent of a rolling five-year  
14 average investment in telecommunications plant within the state. The  
15 initial five years for calculation of this five-year rolling average  
16 shall be from January 1, 1993, through December 31, 1998. A company  
17 shall report to the commission any discrepancies and the reasons why it  
18 is not making investment at the minimum level contained in the plan.

19 (3) The infrastructure development plan shall include provisions  
20 for interoffice route diversity, with self-healing capabilities.

21 (4) The commission shall approve the plan if it complies with this  
22 section. The fact that the plan has not been approved shall not have  
23 any effect on a company's election to be regulated under section 4 of  
24 this act.

25 NEW SECTION. **Sec. 6.** If the commission acts to modify or remove  
26 an exemption held by a rural telephone company under the  
27 telecommunications act of 1996, coincident with the effective date of  
28 any modification or removal of such exemption, the commission shall  
29 grant that rural telephone company pricing flexibility. The rural  
30 telephone company is then authorized to convert its tariffs to price  
31 lists and, in all respects, shall be treated as though it were  
32 classified as a competitive local exchange company. The pricing  
33 flexibility granted to such rural telephone company shall affect only  
34 such exchanges served by the rural telephone company to which the  
35 modification or removal of the exemption applies. The pricing  
36 flexibility granted to the rural telephone company shall not allow it  
37 to price its services below long-run incremental cost, except for basic  
38 local exchange services which may be priced below long-run incremental

1 cost, taking into account the amount of support calculated per access  
2 line for that exchange from the state and federal universal service  
3 funds.

4 NEW SECTION. **Sec. 7.** Sections 2 through 6 of this act are each  
5 added to chapter 80.36 RCW.

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