

# HOUSE BILL REPORT

## HB 2199

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**As Passed House:**

March 14, 2003

**Title:** An act relating to telecommunications.

**Brief Description:** Concerning telecommunications.

**Sponsors:** By Representative Morris.

**Brief History:**

**Committee Activity:**

Technology, Telecommunications & Energy: 3/4/03 [DP].

**Floor Activity:**

Passed House: 3/14/03, 95-0.

**Brief Summary of Bill**

- Specifies that an additional factor to be considered by the Washington Utilities and Transportation Commission (WUTC) when determining a company's request to be classified as competitive is the presence of all alternative service providers in the company's service area.
- Directs the WUTC to obtain information on telephone service customers from a variety of telephone service providers, whether or not they are regulated by the WUTC, to determine the level of competition in each company's service territory.

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### HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

**Majority Report:** Do pass. Signed by 16 members: Representatives Morris, Chair; Ruderman, Vice Chair; Sullivan, Vice Chair; Crouse, Ranking Minority Member; Nixon, Assistant Ranking Minority Member; Anderson, Blake, Bush, Delvin, Hudgins, Kirby, McMahan, Romero, Tom, Wallace and Wood.

**Staff:** Pam Madson (786-7166).

**Background:**

As telecommunications markets have become more competitive, increasing flexibility has

been provided in the regulation of telecommunications companies and services. In 1985 the Washington Utilities and Transportation Commission (WUTC) was directed to begin classifying certain telecommunications companies and services as competitive if the services they offer are subject to effective competition.

In determining whether a company or service is competitive, the WUTC considers factors such as the number and size of competing providers, the extent to which service is offered in the relevant market, the ready availability of equivalent services at competitive prices, and other indicators of market power.

Competitive telecommunications companies are subject to minimal regulation. They may file price lists rather than tariff schedules. Price lists become effective sooner than tariffs. The WUTC may waive other requirements if it determines that competition will serve the same purpose as regulation. It may waive different regulations for different companies. Reporting requirements are less rigorous than those for noncompetitive companies.

Telecommunications companies are regulated under a "rate of return" system. Under certain circumstances, telecommunications companies can be regulated in ways other than the traditional "rate of return" regulation. For example, a telecommunications company may petition the WUTC to be regulated under an "alternative form of regulation."

A telecommunications company may submit a petition to the WUTC proposing a plan for an alternative form of regulation. Prior to approving the plan, the WUTC must consider a number of factors. These factors include the extent to which the proposed form of regulation will reduce regulatory delay and costs, encourage innovation in services, promote efficiency, enhance the company's ability to respond to competition, provide fair, just, and reasonable rates for all rate payers, and prevent companies from exercising substantial market power in the absence of competition or regulation. The WUTC also can initiate consideration of an alternative form of regulation for a telecommunications company. A company has 60 days to elect not to proceed with the alternative form of regulation as authorized by the WUTC.

The WUTC regulates telecommunications companies providing wireline service but does not regulate broadband service like DSL, wireless mobile service, or cable TV service.

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### **Summary of Bill:**

In addition to the current state policy regarding telecommunications, it is also the policy of the state to ensure that rate of return, rate base regulation of telecommunications companies is commensurate with the level of competitive activity from alternative service providers in a company's territory.

In addition to the factors that the WUTC must consider when determining whether to classify a telecommunications company as a competitive company, the WUTC must consider the presence of all alternative service providers regardless of the technology used to offer alternative services in competition with a telecommunications company.

The state policy recognizes that alternative form of regulation arrangements are desirable for the differing circumstances of companies and their ratepayers because of the diversity in the types of services offered including services offered by alternative service providers whether or not they are under WUTC regulation.

The WUTC is directed to obtain information on the number of customers receiving telephone service using a variety of sources, including cable or microwave, to determine the level of competition within each regulated telephone company's service territory. This information is used when evaluating petitions or motions by the WUTC for classification as a competitive company or for approving an alternative form of regulation.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill deals with the issue of competition for incumbent land line providers in Washington. We would like to say as a matter of state policy that when looking at rate cases or A-form processes, the WUTC must consider other two-way electronic communications for a fee. This information must be considered in competition determinations whether the WUTC regulates them or not. We are working on a way for wireless carriers to provide a zip plus four list of customers from information based on E911 fees that is not costly to them. This information would be provided to the Department of Revenue or the WUTC. The principle of this bill is a sensible one and the WUTC should be looking at alternative technologies when considering competition for companies and services. The WUTC does consider this but it is working with imperfect information. The WUTC would support a policy of technological neutrality under Title 80 and a stronger statement directing all companies to provide the WUTC with data necessary to do a proper analysis of the competitive environment. The WUTC cannot at this point require wireless companies to report this information. Existing data is collected at the county level and it would need to go down to a zip plus four level for it to be useful. Focusing on wireless E911 data may be too narrow. This bill recognizes that the industry has changed dramatically. We should continue to work on this concept.

**Testimony Against:** None.

**Testified:** Representative Morris, prime sponsor; Beth Redfield, Washington Utilities and Transportation Commission; and Tom Walker, Qwest.