

**SENATE BILL REPORT**

**SB 5732**

**AS OF MARCH 21, 1991**

**Brief Description:** Regulating local exchange companies that provide enhanced telecommunications services.

**SPONSORS:** Senators Moore and Williams.

**SENATE COMMITTEE ON ENERGY & UTILITIES**

**Staff:** Phil Moeller (786-7445)

**Hearing Dates:** March 21, 1991

**BACKGROUND:**

Partially in response to the 1984 divestiture of AT&T, in 1985 the Legislature enacted the Regulatory Flexibility Act to deal with the emerging competitiveness of the telecommunications industry. This legislation, SSB 3305, declared that state telecommunications policy includes preserving universal service, preventing cross subsidy from noncompetitive to competitive services, promoting a diversity of supply in telecommunications services and permitting flexible regulation of competitive telecommunications companies and services.

Under this act, the Washington Utilities and Transportation Commission (WUTC) may classify a telecommunications company as "competitive," thereby subjecting the company to only minimal regulation. The same classification of "competitive" can be made as to a particular service offered by a company that is not classified as competitive. If a noncompetitive company offers a service that is competitive, the rates charged must cover the cost of the service and any losses incurred through this service may not be recovered in rates of noncompetitive services.

The WUTC must approve contracts or arrangements between public service companies, including telecommunications companies, and their affiliated interests.

**SUMMARY:**

Enhanced telecommunications services are defined as services offered over common carrier telecommunications transmission facilities and that: use computer processing applications acting on the format, content, code protocol, or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. "Enhanced service provider" is defined as any entity that provides enhanced services.

Local exchange telecommunications companies are required to separate their enhanced services operations from their exchange and interexchange services and offer these services through a subsidiary. Requirements are specified for membership of the board of directors of a subsidiary formed to offer enhanced services. Such a subsidiary must carry out transactions with its local exchange company without preference or discrimination arising out of its affiliation, and must carry out its own marketing, advertising, hiring, and related functions.

Such a subsidiary is prohibited from: entering into any joint venture or partnership with the local exchange company; have employees or a financial structure in common with the local exchange company; own any property in common with the local exchange company; or establish any other subsidiary or affiliate except after notice to the WUTC.

Separate subsidiaries are not required for local exchange companies serving fewer than 10,000 subscribers unless the WUTC finds that such a separation of operations is cost-effective for all ratepayers.

The WUTC is directed to take such actions necessary to prevent anticompetitive practices between a local exchange company and any other affiliate of the local exchange company and to protect local ratepayers from bearing any cost not associated with the provision of services by the local exchange company.

The WUTC is prohibited from regulating enhanced services.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested