
SENATE BILL 5690

State of Washington 53rd Legislature 1993 Regular Session

By Senators Hochstatter and Vognild

Read first time 02/09/93. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to classification of telecommunications companies;
2 and amending RCW 80.36.330.

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

4 **Sec. 1.** RCW 80.36.330 and 1989 c 101 s 16 are each amended to read
5 as follows:

6 (1) The commission may classify a telecommunications service
7 provided by a telecommunications company as a competitive
8 telecommunications service if it finds, after notice and hearing, that
9 the service is subject to effective competition. Effective competition
10 means that customers of the service have reasonably available
11 alternatives and that the service is not provided to a significant
12 captive customer base. In determining whether a service is
13 competitive, factors the commission shall consider include but are not
14 limited to:

- 15 (a) The number and size of alternative providers of services;
16 (b) The extent to which services are available from alternative
17 providers in the relevant market;

1 (c) The ability of alternative providers to make functionally
2 equivalent or substitute services readily available at competitive
3 rates, terms, and conditions; and

4 (d) Other indicators of market power, which may include market
5 share, growth in market share, ease of entry, and the affiliation of
6 providers of services.

7 (2) A telecommunications service provided by a telecommunications
8 company making application under this section shall be classified as a
9 competitive service if such service, or a functionally equivalent or
10 substitute service:

11 (a) Is provided by another telecommunications company and has been
12 classified as competitive under this section; or

13 (b) Is provided, or is authorized by the commission to be provided,
14 by a competitive telecommunications company.

15 (3) When the commission finds that a telecommunications company has
16 demonstrated that a telecommunications service is competitive, the
17 commission may permit the service to be provided under a price list
18 effective on ten days notice to the commission and customers. The
19 commission shall prescribe the form of notice. The commission may
20 adopt procedural rules necessary to implement this section.

21 ~~((+3))~~ (4) Prices or rates charged for competitive
22 telecommunications services shall cover their cost. The commission
23 shall determine proper cost standards to implement this section,
24 provided that in making any assignment of costs or allocating any
25 revenue requirement, the commission shall act to preserve affordable
26 universal telecommunications service.

27 ~~((+4))~~ (5) The commission may investigate prices for competitive
28 telecommunications services upon complaint. In any complaint
29 proceeding initiated by the commission, the telecommunications company
30 providing the service shall bear the burden of proving that the prices
31 charged cover cost, and are fair, just, and reasonable.

32 ~~((+5))~~ (6) Telecommunications companies shall provide the
33 commission with all data it deems necessary to implement this section.

34 ~~((+6))~~ (7) No losses incurred by a telecommunications company in
35 the provision of competitive services may be recovered through rates
36 for noncompetitive services. The commission may order refunds or
37 credits to any class of subscribers to a noncompetitive
38 telecommunications service which has paid excessive rates because of
39 below cost pricing of competitive telecommunications services.

1 (~~(7)~~) (8) The commission may reclassify any competitive
2 telecommunications service if reclassification would protect the public
3 interest.

4 (~~(8)~~) (9) The commission may waive the requirements of RCW
5 80.36.170 and 80.36.180 in whole or in part for a service classified as
6 competitive if it finds that competition will serve the same purpose
7 and protect the public interest.

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