

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1744

Chapter 110, Laws of 1995

54th Legislature
1995 Regular Session

Telecommunications--Streamlined regulation of small companies

EFFECTIVE DATE: 7/23/95

Passed by the House February 22, 1995
Yeas 98 Nays 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Passed by the Senate April 7, 1995
Yeas 39 Nays 0

JOEL PRITCHARD

President of the Senate

Approved April 19, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1744** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN

Chief Clerk

FILED

April 19, 1995 - 3:17 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1744

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representatives Huff, Kessler, Casada and Campbell)

Read first time 02/17/95.

1 AN ACT Relating to streamlined regulation of small
2 telecommunications companies; amending RCW 80.36.135; adding a new
3 section to chapter 80.04 RCW; adding a new section to chapter 80.08
4 RCW; adding a new section to chapter 80.12 RCW; and adding a new
5 section to chapter 80.16 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 80.04 RCW
8 to read as follows:

9 (1)(a) Except as provided in (b) of this subsection, the following
10 do not apply to a local exchange company that serves less than two
11 percent of the access lines in the state of Washington: RCW 80.04.080,
12 80.04.300 through 80.04.330, and, except for RCW 80.08.140, chapters
13 80.08, 80.12, and 80.16 RCW.

14 (b) Nothing in this subsection (1) shall affect the commission's
15 authority over the rates, service, accounts, valuations, estimates, or
16 determinations of costs, as well as the authority to determine whether
17 any expenditure is fair, reasonable, and commensurate with the service,
18 material, supplies, or equipment received.

1 (c) For purposes of this subsection, the number of access lines
2 served by a local exchange company includes the number of access lines
3 served in this state by any affiliate of that local exchange company.

4 (2) Any local exchange company for which an exemption is provided
5 under this section shall not be required to file reports or data with
6 the commission, except each such company shall file with the commission
7 an annual report that consists of its annual balance sheet and results
8 of operations, both presented on a Washington state jurisdictional
9 basis. This requirement may be satisfied by the filing of information
10 or reports and underlying studies filed with exchange carrier entities
11 or regulatory agencies if the jurisdictionally separated results of
12 operations for Washington state can be obtained from the information or
13 reports. This subsection shall not be applied to exempt a local
14 exchange company from an obligation to respond to data requests in an
15 adjudicative proceeding in which it is a party.

16 (3) The commission may, in response to customer complaints or on
17 its own motion and after notice and hearing, establish additional
18 reporting requirements for a specific local exchange company.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.08 RCW
20 to read as follows:

21 Subject to section 1(1) of this act, this chapter does not apply to
22 a local exchange company that serves less than two percent of the
23 access lines in the state of Washington.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.12 RCW
25 to read as follows:

26 Subject to section 1(1) of this act, this chapter does not apply to
27 a local exchange company that serves less than two percent of the
28 access lines in the state of Washington.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.16 RCW
30 to read as follows:

31 Subject to section 1(1) of this act, this chapter does not apply to
32 a local exchange company that serves less than two percent of the
33 access lines in the state of Washington.

34 **Sec. 5.** RCW 80.36.135 and 1989 c 101 s 1 are each amended to read
35 as follows:

1 (1) The legislature declares that:

2 (a) Changes in technology and the structure of the
3 telecommunications industry may produce conditions under which
4 traditional rate of return, rate base regulation of telecommunications
5 companies may not in all cases provide the most efficient and effective
6 means of achieving the public policy goals of this state as declared in
7 RCW 80.36.300, this section, and RCW 80.36.145. The commission should
8 be authorized to employ an alternative form of regulation if that
9 alternative is better suited to achieving those policy goals.

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

14 (2) Subject to the conditions set forth in this chapter and RCW
15 80.04.130, the commission may regulate telecommunications companies
16 subject before July 23, 1989, to traditional rate of return, rate base
17 regulation by authorizing an alternative form of regulation. The
18 commission may determine the manner and extent of any alternative forms
19 of regulation as may in the public interest be appropriate. In
20 addition to the public policy goals declared in RCW 80.36.300, the
21 commission shall consider, in determining the appropriateness of any
22 proposed alternative form of regulation, whether it will:

23 (a) Reduce regulatory delay and costs;

24 (b) Encourage innovation in services;

25 (c) Promote efficiency;

26 (d) Facilitate the broad dissemination of technological
27 improvements to all classes of ratepayers;

28 (e) Enhance the ability of telecommunications companies to respond
29 to competition;

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

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

34 The commission shall make written findings of fact as to each of
35 the above-stated policy goals in ruling on any proposed alternative
36 form of regulation.

37 (3) A telecommunications company or companies subject to
38 traditional rate of return, rate base regulation may petition the
39 commission to (~~regulate the company under~~) establish an alternative

1 form of regulation. The company or companies shall submit with ~~((its))~~
2 the petition ~~((its))~~ a plan for an alternative form of regulation. The
3 plan shall contain ~~((the company's))~~ a proposal for transition to the
4 alternative form of regulation. The commission shall review and may
5 modify or reject the ~~((company's))~~ proposed plan. The commission also
6 may initiate consideration of alternative forms of regulation for a
7 company or companies on its own motion. The commission may approve the
8 plan or modified plan and authorize its implementation, if it finds,
9 after notice and hearing, that the plan or modified plan:

10 (a) Is in the public interest;

11 (b) Is necessary to respond to such changes in technology and the
12 structure of the intrastate telecommunications industry as are in fact
13 occurring;

14 (c) Is better suited to achieving the policy goals set forth in RCW
15 80.36.300 and this section than the traditional rate of return, rate
16 base regulation;

17 (d) Ensures that ratepayers will benefit from any efficiency gains
18 and cost savings arising out of the regulatory change and will afford
19 ratepayers the opportunity to benefit from improvements in productivity
20 due to technological change;

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

23 (f) Will produce fair, just, and reasonable rates for
24 telecommunications services; and

25 (g) Will not unduly or unreasonably prejudice or disadvantage any
26 particular customer class.

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

36 (5) The commission may waive such regulatory requirements under
37 Title 80 RCW for a telecommunications company subject to an alternative
38 form of regulation as may be appropriate to facilitate the
39 implementation of this section: PROVIDED, That the commission may not

1 grant the authority to price list services except as provided in RCW
2 80.36.300 through 80.36.370, the regulatory flexibility act, nor may it
3 waive any statutory requirements or grants of legal rights to any
4 person contained in this chapter and chapter 80.04 RCW as amended,
5 except as otherwise expressly provided. The commission may waive
6 different regulatory requirements for different companies or services
7 if such different treatment is in the public interest.

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

Passed the House February 22, 1995.

Passed the Senate April 7, 1995.

Approved by the Governor April 19, 1995.

Filed in Office of Secretary of State April 19, 1995.

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