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SENATE BILL 6430

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State of Washington

58th Legislature

2004 Regular Session

By Senators Esser, B. Sheldon, Hale, Oke, Pflug, Fairley, Stevens, McAuliffe, T. Sheldon, Jacobsen, Sheahan, McCaslin, Roach, Winsley, Berkey, Haugen, Eide, Keiser, Schmidt and Carlson

Read first time 01/20/2004. Referred to Committee on Technology & Communications.

1 AN ACT Relating to extending the prohibition on mandatory local  
2 measured telecommunications service; and amending RCW 80.04.130.

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

4 **Sec. 1.** RCW 80.04.130 and 2003 c 189 s 1 are each amended to read  
5 as follows:

6 (1) Except as provided in subsection (2) of this section, whenever  
7 any public service company shall file with the commission any schedule,  
8 classification, rule, or regulation, the effect of which is to change  
9 any rate, charge, rental, or toll theretofore charged, the commission  
10 shall have power, either upon its own motion or upon complaint, upon  
11 notice, to enter upon a hearing concerning such proposed change and the  
12 reasonableness and justness thereof. Pending such hearing and the  
13 decision thereon, the commission may suspend the operation of such  
14 rate, charge, rental, or toll for a period not exceeding ten months  
15 from the time the same would otherwise go into effect. After a full  
16 hearing, the commission may make such order in reference thereto as  
17 would be provided in a hearing initiated after the same had become  
18 effective.

1 (2)(a) The commission shall not suspend a tariff that makes a  
2 decrease in a rate, charge, rental, or toll filed by a  
3 telecommunications company pending investigation of the fairness,  
4 justness, and reasonableness of the decrease when the filing does not  
5 contain any offsetting increase to another rate, charge, rental, or  
6 toll and the filing company agrees to not file for an increase to any  
7 rate, charge, rental, or toll to recover the revenue deficit that  
8 results from the decrease for a period of one year.

9 (i) The filing company shall file with any decrease sufficient  
10 information as the commission by rule may require to demonstrate the  
11 decreased rate, charge, rental, or toll is above the long run  
12 incremental cost of the service. A tariff decrease that results in a  
13 rate that is below long run incremental cost, or is contrary to  
14 commission rule or order, or the requirements of this chapter, shall be  
15 rejected for filing and returned to the company.

16 (ii) The commission may prescribe a different rate to be effective  
17 on the prospective date stated in its final order after its  
18 investigation, if it concludes based on the record that the originally  
19 filed and effective rate is unjust, unfair, or unreasonable.

20 (b) The commission shall not suspend a promotional tariff. For the  
21 purposes of this section, "promotional tariff" means a tariff that, for  
22 a period of up to ninety days, waives or reduces charges or conditions  
23 of service for existing or new subscribers for the purpose of retaining  
24 or increasing the number of customers who subscribe to or use a  
25 service.

26 (3) The commission may suspend the initial tariff filing of any  
27 water company removed from and later subject to commission jurisdiction  
28 because of the number of customers or the average annual gross revenue  
29 per customer provisions of RCW 80.04.010. The commission may allow  
30 temporary rates during the suspension period. These rates shall not  
31 exceed the rates charged when the company was last regulated. Upon a  
32 showing of good cause by the company, the commission may establish a  
33 different level of temporary rates.

34 (4) At any hearing involving any change in any schedule,  
35 classification, rule, or regulation the effect of which is to increase  
36 any rate, charge, rental, or toll theretofore charged, the burden of  
37 proof to show that such increase is just and reasonable shall be upon  
38 the public service company.

1           (5)     The     implementation     of     mandatory     local     measured  
2     telecommunications     service     is     a     major     policy     change     in     available  
3     telecommunications     service.     The     commission     shall     not     accept     for     filing  
4     a     price     list,     nor     shall     it     accept     for     filing     or     approve,     prior     to     June  
5     1,     ((2004))     2008,     a     tariff     filed     by     a     telecommunications     company     which  
6     imposes     mandatory     local     measured     service     on     any     customer     or     class     of  
7     customers,     except     that,     upon     finding     that     it     is     in     the     public     interest,  
8     the     commission     may     accept     for     filing     a     price     list     or     it     may     accept     for  
9     filing     and     approve     a     tariff     that     imposes     mandatory     measured     service     for  
10    a     telecommunications     company's     extended     area     service     or     foreign  
11    exchange     service.     This     subsection     does     not     apply     to     land,     air,     or  
12    marine     mobile     service,     or     to     pay     telephone     service,     or     to     any     service  
13    which     has     been     traditionally     offered     on     a     measured     service     basis.

14           (6)     The     implementation     of     Washington     telephone     assistance     program  
15    service     is     a     major     policy     change     in     available     telecommunications  
16    service.     The     implementation     of     Washington     telephone     assistance     program  
17    service     will     aid     in     achieving     the     stated     goal     of     universal     telephone  
18    service.

19           (7)     If     a     utility     claims     a     sales     or     use     tax     exemption     on     the  
20    pollution     control     equipment     for     an     electrical     generation     facility     and  
21    abandons     the     generation     facility     before     the     pollution     control     equipment  
22    is     fully     depreciated,     any     tariff     filing     for     a     rate     increase     to     recover  
23    abandonment     costs     for     the     pollution     control     equipment     shall     be  
24    considered     unjust     and     unreasonable     for     the     purposes     of     this     section.

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