
**Technology, Energy &
Communications Committee**

HB 2103

Brief Description: Modifying the competitive classification of telecommunications services.

Sponsors: Representatives Morris, Crouse and Wallace.

Brief Summary of Bill

- Allows the Washington Utilities and Transportation Commission (WUTC) to consider the number and size of alternative providers of service not subject to commission jurisdiction in determining whether a telecommunication service is competitive.
- Specifies the WUTC may classify as competitive any telecommunications service or class of service that is found not to be an essential service.
- Provides the conditions for which the WUTC may classify as competitive any package or bundle of telecommunications services.

Hearing Date: 2/16/07

Staff: Scott Richards (786-7156).

Background:

Washington's Telecommunication Policy

In 1985, the Legislature declared that it is the policy of the state to: (1) preserve affordable universal telecommunications service; (2) maintain and advance the efficiency and availability of telecommunications service; (3) ensure that customers pay only reasonable charges for telecommunications service; (4) ensure that rates for noncompetitive telecommunications services do not subsidize the competitive ventures of regulated telecommunications companies; (5) promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state; and (6) permit flexible regulation of competitive telecommunications companies and services.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Washington Utilities and Transportation Commission (WUTC)

The WUTC regulates the rates, services, and practices of privately-owned utilities and transportation companies, including electric, telecommunications, natural gas, water, and solid waste collection companies, pipeline safety, private commercial ferries, buses, and motor carriers.

The WUTC regulates about 20 local telephone companies and 450 competitive firms. The WUTC does not regulate wireless communications or cable TV. The WUTC's regulation of telecommunications companies may involve reviewing tariffs, contracts and interconnection agreements; monitoring the financial performance of approximately 20 companies that continue to have a captive customer base; reviewing mergers and transfers to protect captive customers and competition; and removing regulation as competition increases.

Competitive Classification of Telecommunications

A telecommunications company may petition the WUTC to be classified as a competitive telecommunications company or to have services classified as competitive telecommunications services.

The WUTC may classify a telecommunications service provided by a telecommunications company as a competitive service if the service is subject to effective competition. Effective competition means that customers of the service have reasonably available alternatives and that the service is not provided to a significant captive customer base.

In determining whether a service is competitive, the WUTC considers:

- the number and size of alternative providers of services;
- the extent to which services are available from alternative providers in the relevant market;
- the ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

Competitive telecommunications services are subject to minimal regulation. The WUTC may waive regulatory requirements for companies offering a competitive telecommunications service when it determines that competition will serve the same purposes as public interest regulation. The WUTC may waive different regulatory requirements for different companies if such different treatment is in the public interest. The WUTC may reclassify any competitive telecommunications service if reclassification would protect the public interest.

Prices or rates charged for competitive telecommunications services shall cover their cost. The WUTC shall determine proper cost standards to implement this section, provided that in making any assignment of costs or allocating any revenue requirement, the WUTC shall act to preserve affordable universal telecommunications service.

No losses incurred by a telecommunications company in the provision of competitive services may be recovered through rates for noncompetitive services. The WUTC may order refunds or credits to any class of subscribers to a noncompetitive telecommunications service which has paid excessive rates because of below cost pricing of competitive telecommunications services.

Summary of Bill:

Competitive Telecommunications Service

In determining whether a competitive telecommunications service is subject to effective competition, the WUTC may consider the number and size of alternative providers of telecommunications services not subject to WUTC's jurisdiction in addition to the those that are regulated by the WUTC.

Also, the WUTC may classify as competitive any telecommunications service or class of service that it finds not to be an essential service; or any package or bundle of services where each essential service in the package or bundle is readily and separately available to customers at fair, just, and reasonable prices, and the price of the bundle or package is equal to or greater than the cost for tariffed services plus the cost of any competitive service as determined by the WUTC in effort to preserve affordable universal telecommunications service.

"Essential service" includes but is not limited to:

- voice grade access to the public switched network;
- local usage;
- dual tone multifrequency signaling (touch-tone) or its functional equivalent;
- single-party service or its functional equivalent;
- access to emergency services, operator services, local directory assistance, telephone relay services, and interexchange service; and
- toll limitation and lifeline service for qualifying low-income consumers.

Appropriation: None.

Fiscal Note: Not requested.

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