S-0561.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5455**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Mullet and MacEwen

AN ACT Relating to classification as a competitive telecommunications company for an incumbent local exchange carrier currently operating under an alternative form of regulation authorized by RCW 80.36.135; and amending RCW 80.36.320.

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

**Sec.**  RCW 80.36.320 and 2008 c 181 s 408 are each amended to read as follows:

(1) The commission shall classify a telecommunications company as a competitive telecommunications company if the services it offers are subject to effective competition. Effective competition means that the company's customers have reasonably available alternatives, including alternatives that utilize technologies other than traditional landline telephone service, and that the company does not have a significant captive customer base. In determining whether a company is competitive, factors the commission shall consider include but are not limited to:

(a) The number and sizes of alternative providers of service;

(b) The extent to which services are available from alternative providers in the relevant market;

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

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

The commission shall conduct the initial classification and any subsequent review of the classification in accordance with such procedures as the commission may establish by rule.

(2) Competitive telecommunications companies shall be subject to minimal regulation. The commission may waive any regulatory requirement under this title for competitive telecommunications companies when it determines that competition will serve the same purposes as public interest regulation. The commission may waive different regulatory requirements for different companies if such different treatment is in the public interest. A competitive telecommunications company shall at a minimum:

(a) Keep its accounts according to regulations as determined by the commission;

(b) File financial reports with the commission as required by the commission and in a form and at times prescribed by the commission; and

(c) Cooperate with commission investigations of customer complaints.

(3) The commission may revoke any waivers it grants and may reclassify any competitive telecommunications company if it finds that the company is no longer subject to effective competition and it determines that the revocation or reclassification would protect the public interest.

(4) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a competitive telecommunications company if it finds that competition will serve the same purpose and protect the public interest.

(5) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population.

(6) In addition to the process in subsection (1) of this section, an incumbent local exchange carrier may elect to be classified as a competitive telecommunications company by providing written notice to the commission if the carrier is operating under an alternative form of regulation authorized by RCW 80.36.135 and the carrier does not receive universal communications services program distributions under RCW 80.36.650. Once competitive classification has been elected under this subsection, the company's alternative form of regulation automatically terminates.

(7) Telecommunications companies identified in subsection (6) of this section, as of the date they become competitively classified, and for a period of three years after any election made pursuant to subsection (6) of this section shall:

(a) Not further geographically deaverage the nonrecurring and monthly recurring rates for stand-alone business exchange service and stand-alone residential exchange service in the state; and

(b) Continue to tariff public safety network services to state and county public safety entities necessary for routing and transmission of emergency service (911) calls.

(8) Telecommunications companies identified in subsection (6) of this section, as of the date they become competitively classified, and for a period of one year, may not seek to discontinue flat-rate stand-alone residential or business exchange services throughout an entire wire center in the state. After one year after the election is made pursuant to subsection (6) of this section, a telecommunications company may petition the commission to relieve the company of this restriction as to one or more wire centers. A commission proceeding to consider such a petition must be:

(a) Completed within six months of the petition being filed; and

(b) Approved if the petitioner can establish:

(i) The presence, in the subject wire center, of at least two other voice service providers, regardless of whether the service providers utilize technologies other than traditional landline telephone service;

(ii) The presence of a service provider that has undertaken a state or federal obligation to provide communications service in the wire center in exchange for receiving state or federal subsidy; or

(iii) That its retail market share of voice service is less than 50 percent in a wire center, calculated as petitioner's retail residential voice customers in the wire center divided by the residential housing units in the wire center.

**--- END ---**