

**SENATE BILL REPORT**

**SB 6425**

**AS REPORTED BY COMMITTEE ON ENERGY & UTILITIES,  
FEBRUARY 3, 1994**

**Brief Description:** Regulating telecommunications systems.

**SPONSORS:** Senators Sutherland and Ludwig

**SENATE COMMITTEE ON ENERGY & UTILITIES**

**Majority Report:** That Substitute Senate Bill No. 6425 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Sutherland, Chairman; Ludwig, Vice Chairman; Hochstatter, Owen, A. Smith and Vognild.

**Staff:** Phil Moeller (786-7445)

**Hearing Dates:** January 24, 1994; January 25, 1994; January 27, 1994; January 28, 1994; January 31, 1994; February 1, 1994; February 3, 1994

**SENATE COMMITTEE ON WAYS & MEANS**

**Staff:** Martin Chaw (786-7711)

**Hearing Dates:** February 7, 1994

**BACKGROUND:**

The 1984 divestiture of AT&T led to major changes in the telecommunications industry. Prior to divestiture, many products and services were offered by monopoly providers who faced no effective competition. Built into the monopoly structure was a complex system of subsidies. Revenues from long-distance telephone service had traditionally subsidized the cost of basic dial tone service. With divestiture, a competitive market began to emerge for much of the long-distance market and prices fell. Although consumers eventually seemed to appreciate additional choices and lower prices, confusion was created with the ability to choose certain providers and the price of basic service increased dramatically when the initial change was made.

The Legislature responded to the changes in the telecommunications market with the 1985 Regulatory Flexibility Act. This act allows entire telecommunications companies to be classified as "competitive" if a competitive market exists for their products or services. The act also allows certain services or products of an otherwise monopoly provider to be declared "competitive" if market forces are sufficient for the product or service. "Competitive" classification has the advantage of minimal regulation. The provisions of the act

are administered by the Washington Utilities and Transportation Commission.

In 1989 the Legislature also made significant modifications to state telecommunications policy. In addition to giving greater flexibility in contracting services, the legislation also allows an alternative form of regulation for a telecommunications company. The alternative form is in contrast to "rate of return" regulation that allows a company to earn up to a set rate of return on its investment. The alternative form is intended to give additional incentives to the company to earn additional revenue and benefit from increased efficiency.

The current telecommunications landscape shows the convergence of several industries that have typically provided distinct services. Entities such as local exchange television companies providing dial tone, cable television companies, long-distance telecommunications companies, cellular and wireless telecommunications companies, competitive telecommunication access providers and others are all looking to provide new services and products. These formerly distinct market providers are beginning to show common characteristics as the market shifts to the provision and exchange of digitized information.

**SUMMARY:**

Creating Parity Among Communications Service Providers. The Washington Utilities and Transportation Commission (commission) is directed to adopt policies that promote open access to telecommunications networks and systems.

Cities, counties, public utility districts and rural electric cooperatives are prohibited from imposing discriminatory terms upon telecommunications companies regarding attachments to poles or rights of way.

Cable television companies are required to provide notice to the commission when they provide interactive services to customers.

The definition of existing and proposed utilities under the Growth Management Act is clarified to include cellular and wireless towers and antennas. The Department of Natural Resources is directed to adopt an expedited permitting process when existing cellular or wireless facilities are transferred to a new owner.

The commission is directed to adopt the capital recovery schedule used by the Federal Communications Commission (FCC) for any local exchange company that is also subject to FCC jurisdiction. The commission cannot approve a rate increase directly attributable to a new capital recovery schedule. The commission may adopt tariffs that allow special rates for educational institutions, hospitals, or libraries.

The universal service task force is created, consisting of representatives from the commission, the Department of Community, Trade and Economic Development, the Department of Information Services, and the public counsel section of the Attorney General's office. The task force is directed to annually review the services, quality of services, service availability, and funding issues that constitute universal telecommunications service. An advisory committee to the task force is created, appointed by the chair of the commission, and composed of representatives of the telecommunications industry and the public.

The commission is authorized to establish competitive geographic zones in which all telecommunications companies and services are subject to minimal regulation. The commission may use funds from the telephone assistance fund to provide for the recovery of costs relating to the expansion of local calling areas.

The commission, with assistance from the Department of Revenue, is directed to study the taxation and assessment of telecommunications and cable television company property, equipment, and services for all local and state taxes. An advisory committee is created to provide guidance and advice for the study, to be composed of representatives of the telecommunications industry and the public.

Facilitating Deployment of Government Services. School districts are authorized to borrow money and issue bonds for upgrading or replacing computer software.

The Department of Information Services (DIS) is directed to inventory and report with recommendations on state-owned and state-leased high capacity telecommunications networks and systems. DIS is to report to the Legislature by January 16, 1995. State agencies are directed to cooperate with DIS and to inform the director of DIS when similar networks and systems are installed.

By December 1, 1994, the Superintendent of Public Instruction is directed to inform DIS of existing and planned telecommunications networks of school districts in the state. Similar directives are given to the Higher Education Coordinating Board regarding four-year institutions and to the State Board for Community and Technical Colleges.

School districts, four-year institutions, and community and technical colleges are directed to inform the Director of DIS when new telecommunications networks are installed or leased.

The State Building Code Council is directed to study the feasibility of adopting standards for wiring internal telecommunications networks. The council shall report to the Legislature by January 16, 1995.

By January 1, 1996, the owner of private telecommunication systems that provide services to residential settings, schools, and certain business settings is required to ensure

that 911 emergency calls will forward proper automatic location identification (ALI). Cities and counties are prohibited from enacting ordinances mandating that private telecommunications systems forward ALI. The state enhanced 911 coordination office may develop public education materials on ALI capability and may participate in efforts to set uniform national standards for ALI.

The Department of Labor and Industries is directed to adopt rules on notification of ALI from telephones. The Fire Protection Policy Board is directed to recommend rules to the Director of the Department of Community, Trade and Economic Development on minimum data requirements of ALI for the purposes of 911 emergency calls.

Local government franchising authorities are authorized to provide incentives for deploying cable television systems to areas unserved by cable operators. Incentive programs are limited to a five-year period.

The commission is directed to adopt policies that encourage electric and gas companies to deploy high-capacity telecommunications plants that allow for energy conservation and management by customers. Any excess capacity can be provided on nondiscriminatory terms set by the commission.

Public utility districts and rural electric cooperatives may deploy high-capacity telecommunications equipment and plants for the primary purpose of energy conservation and management by customers. Open access to excess capacity must be allowed on a standard and nondiscriminatory basis as set by the governing authority of the district or cooperative.

Consumer Protection Standards. Minimum standards for cable television service are adopted. Local governments may exceed the standards in specific franchise agreements. Cable operators are required to have offices and be available for customer service questions at specific times. Standards are set for repair requests, installation requests, canceled appointments, service disconnections, service interruptions, itemization of billing, available services, notice of price increases, discrimination, reporting of negative credit ratings, and inspection of financial records by the franchising authority.

Each cable system shall make at least one channel available for exclusive use for local and state originated public, educational and governmental programming.

When requested by a local franchising authority, the commission is directed to provide assistance in negotiating franchise terms. The commission is directed to provide assistance at cost and its recommendations are not binding.

Cable television systems and telecommunications companies are prohibited from charging a customer for a service that is not affirmatively requested by the customer.

Owners of pay telephones are prohibited from operating a pay telephone service through an alternate operator service that fails to post a consumer protection notice or provide routing in conformance with commission rules. An alternate operator service is prohibited from providing service to a customer-owned pay telephone service or call aggregator that has been denied service by another alternate operator service during the previous 60 days.

**EFFECT OF PROPOSED SUBSTITUTE:**

Creating Parity Among Communications Service Providers. The commission is given greater flexibility regarding open telecommunications networks. Sections regulating pole attachment restrictions are clarified to allow uniformity in pricing by entities that own poles. Definitions are added relating to cable television. Requirements to adopt Federal Communications Commission capital recovery methods are modified to apply to all local exchange companies in the state and clarification is added that the commission may respond with fair, just, reasonable and sufficient rates.

Cross references are made to statutes that require non-discriminatory rates to allow for special tariffs for educational institutions, medical facilities, and libraries. Legislative members are added to the universal service task force. Additional entities are added as potential members of the universal service task force advisory committee. The commission is required to make specified findings before approving competitive telecommunications zones. The community calling fund for extended area service and references to the telephone assistance program are removed. The lead agency of the telecommunications taxation study is changed from the commission to the Department of Revenue.

Facilitating Deployment of Government Services. The provision adding computer software as an item for which school districts may collect levies is placed in a different section of the statutes. A requirement is added that directs public entities to also inform DIS of the location of owned or leased telecommunications backbone networks. Clarification is added regarding the requirements of forwarding 911 data from private telecommunications networks.

Facilitating Communications Services in Rural Areas. Sections on rural cable incentives are condensed. The section directing the commission to encourage telecommunications deployment for energy utilities under commission jurisdiction is removed. The conditions for access to telecommunications systems owned by public utility districts, rural electric cooperatives, and mutual electric corporations are clarified.

Consumer Protection Standards. The section requiring separate cable system offices in each franchise area is removed. Two channels for public, educational, or government programming are required for each cable system. Negative option billing prohibitions on cable television companies and telecommunications companies are clarified. It is clarified

that the telephone taxation study will be funded through the public service revolving fund or the study requirement is void.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested January 26, 1994

**TESTIMONY FOR (Energy & Utilities):**

The Legislature needs to adopt comprehensive telecommunications policies. The state is poised to be a national and worldwide leader in information technology, information systems and providing information services but incentives need to be given to deploy additional high-capacity telecommunications infrastructure. Open networks and open telecommunications systems are needed. As convergence occurs among the providers of telecommunications and digital information, traditional regulatory policies that treat certain entities very differently need to be changed.

**TESTIMONY AGAINST (Energy & Utilities):**

Congress, the courts and the commission are dealing with this issue and the Legislature should wait. Specifying capital recovery and depreciation methods should be left with the commission. Cable television regulation is not needed at the state level. Imposing 911 data requirements should wait until national standards are developed.

**TESTIFIED (Energy & Utilities):** Sue Graham, Revenue; Steve Johnson, WA PUD Assn.; Phil Romney, Snohomish County PUD (pro); Kristen Harte, WA Rural Electric Cooperative Assn.; Mark Greenberg, Art Butler, TRACER (pro/con); Kath Thomas, Tom Spinks, WUTC; Cecile Anderson, DSHS; Dale Vincent, Lee Felling, US West Comm.; William Nisen, IICS; Ian Ritchie, British Computer Society; Stark Beatty, Coalition for Electronic Democracy; Adam Fever, Seattle People Internet; Jeffrey Sterling, Vision Seattle; Jack Gradwohl, WA State Cable Communications Assn.; Nancy Ervin, WA State Cable Communications Assn., Summit Communication; Bill Oltman, Rainier Cable Commission; M. Pease, Rainier Cable Commission; Donna Mason, City of Vancouver, Clark County; Vicki Rippie, PDC; Ernest Hensley, Grays Harbor EDC; Rob Manifold, AGO; Sharon Nelson, WUTC; Dick Hemstad, WUTC; Sam Hunt, DIS; Gail Gary, Bill Garvin, Steve Wehrly, MCI; Kurt Maass, McCaw Cellular; Susan McAdams, Electric Lightwave; Cliff Webster, New Vector; Michael Morris, TCG; Mike Woodin, ATT; Richard Morgan, Communications Tech. Center for Com. & Tech. Colleges; Katrina Meyer, Higher Education Coordinating Board; Cheryl Lemke, OSPI; Frank Dillow, GTE; Joe Poitrus, GTE, Dallas; Tom Walker, US West; Randy Osler; Robb Manual, WA State Hospital Assn. (pro); Keith Baldwin, Samaritan Hospital (pro); Richard Lorenzen, Vice Provost, UW (pro); Jim Quakenbush, Thurston Co. 911 (pro); Monroe Shropshire, King Co. Fire Chiefs Assn., City

of Auburn (pro); David Waltier, Seattle Police, 911 (pro);  
Marlys Davis, King Co. 911; Joe Blaschka, Adcomm (pro)

**TESTIMONY FOR (Ways & Means):**

This measure would improve services and competition among the different providers. It would place downward pressure on rates for long distance services, but would place upward pressure on rates for residential services.

**TESTIMONY AGAINST (Ways & Means):**

This measure would result in significant rate increases for the consumer. It is an anti-competition measure, rather than a pro-competition measure as advertised. Existing monopolistic service providers would be given an even larger share of their market.

**TESTIFIED (Ways & Means):** PRO: Bob Bratton, GTE NW Inc.; Dale Vincent, US West; Robb Menaul, WA State Hospital Assn.; Tom Casey, WA State Grange; CON: Rob Manifold, Attorney General's Office; Tim Sweeney, Utilities and Transportation Commission; Bill Garvin, Steve Wehrly, MCI