

2 SB 6677 - S AMD - 092  
3 By Senator Brown

4 ADOPTED 2/11/00

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 80.36.135 and 1995 c 110 s 5 are each amended to read  
8 as follows:

9 (1) The legislature declares that:

10 (a) Changes in technology and the structure of the  
11 telecommunications industry may produce conditions under which  
12 traditional rate of return, rate base regulation of telecommunications  
13 companies may not in all cases provide the most efficient and effective  
14 means of achieving the public policy goals of this state as declared in  
15 RCW 80.36.300, this section, and RCW 80.36.145. The commission should  
16 be authorized to employ an alternative form of regulation if that  
17 alternative is better suited to achieving those policy goals.

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

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

31 ~~(a) ((Reduce regulatory delay and costs;~~

32 ~~(b) Encourage innovation in services;~~

33 ~~(c) Promote efficiency;~~

34 ~~(d) Facilitate the broad dissemination of technological~~  
35 ~~improvements to all classes of ratepayers;~~

1       ~~(e) Enhance the ability of telecommunications companies to respond~~  
2 ~~to competition;~~

3       ~~(f) Ensure that telecommunications companies do not have the~~  
4 ~~opportunity to exercise substantial market power absent effective~~  
5 ~~competition or effective regulatory constraints; and~~

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

7       ~~The commission shall make written findings of fact as to each of~~  
8 ~~the above-stated policy goals in ruling on any proposed alternative~~  
9 ~~form of regulation)) Facilitate the broad deployment of technological~~  
10 ~~improvements and advanced telecommunications services to underserved~~  
11 ~~areas or underserved customer classes;~~

12       (b) Improve the efficiency of the regulatory process;

13       (c) Preserve or enhance the development of effective competition  
14 and protect against the exercise of market power during its  
15 development;

16       (d) Preserve or enhance service quality and protect against the  
17 degradation of the quality or availability of efficient  
18 telecommunications services;

19       (e) Provide for rates and charges that are fair, just, reasonable,  
20 sufficient, and not unduly discriminatory or preferential; and

21       (f) Not unduly or unreasonably prejudice or disadvantage any  
22 particular customer class.

23       (3) A telecommunications company or companies subject to  
24 traditional rate of return, rate base regulation may petition the  
25 commission to establish an alternative form of regulation. The company  
26 or companies shall submit with the petition a plan for an alternative  
27 form of regulation. The plan shall contain a proposal for transition  
28 to the alternative form of regulation(~~(. The commission shall review~~  
29 ~~and may modify or reject the proposed)) and the proposed duration of~~  
30 the plan. The plan must also contain a proposal for ensuring adequate  
31 carrier-to-carrier service quality, including service quality standards  
32 or performance measures for interconnection, and appropriate  
33 enforcement or remedial provisions in the event the company fails to  
34 meet service quality standards or performance measures. The commission  
35 also may initiate consideration of alternative forms of regulation for  
36 a company or companies on its own motion. The commission ((may approve  
37 the plan or modified plan and authorize its implementation, if it  
38 finds, after notice and hearing, that the plan or modified plan:

39       (a) Is in the public interest;

1       ~~(b) Is necessary to respond to such changes in technology and the~~  
2 ~~structure of the intrastate telecommunications industry as are in fact~~  
3 ~~occurring;~~

4       ~~(c) Is better suited to achieving the policy goals set forth in RCW~~  
5 ~~80.36.300 and this section than the traditional rate of return, rate~~  
6 ~~base regulation;~~

7       ~~(d) Ensures that ratepayers will benefit from any efficiency gains~~  
8 ~~and cost savings arising out of the regulatory change and will afford~~  
9 ~~ratepayers the opportunity to benefit from improvements in productivity~~  
10 ~~due to technological change;~~

11       ~~(e) Will not result in a degradation of the quality or availability~~  
12 ~~of efficient telecommunications services;~~

13       ~~(f) Will produce fair, just, and reasonable rates for~~  
14 ~~telecommunications services; and~~

15       ~~(g) Will not unduly or unreasonably prejudice or disadvantage any~~  
16 ~~particular customer class.)), after notice and hearing, shall issue an~~  
17 ~~order accepting, modifying, or rejecting the plan within six months~~  
18 ~~after the petition or motion is filed, unless extended by the~~  
19 ~~commission for good cause. The commission shall order implementation~~  
20 ~~of the alternative plan of regulation unless it finds that, on balance,~~  
21 ~~an alternative plan as proposed or modified fails to meet the~~  
22 ~~considerations stated in subsection (2) of this section.~~

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

32       ~~(5) The commission may waive such regulatory requirements under~~  
33 ~~Title 80 RCW for a telecommunications company subject to an alternative~~  
34 ~~form of regulation as may be appropriate to facilitate the~~  
35 ~~implementation of this section(: PROVIDED, That the commission may~~  
36 ~~not grant the authority to price list services except as provided in~~  
37 ~~RCW 80.36.300 through 80.36.370, the regulatory flexibility act, nor~~  
38 ~~may it waive any statutory requirements or grants of legal rights to~~  
39 ~~any person contained in this chapter and chapter 80.04 RCW as amended,~~

1 ~~except as otherwise expressly provided)). However, the commission may~~  
2 ~~not waive any grant of legal rights to any person contained in this~~  
3 ~~chapter and chapter 80.04 RCW. The commission may waive different~~  
4 ~~regulatory requirements for different companies or services if such~~  
5 ~~different treatment is in the public interest.~~

6 (6) ~~Upon petition by ((any person, or upon its own motion)) the~~  
7 ~~company, and after notice and hearing, the commission may rescind ((its~~  
8 ~~approval of)) or modify an alternative form of regulation ((if, after~~  
9 ~~notice and hearing, it finds that the conditions set forth in~~  
10 ~~subsection (3) of this section can no longer be satisfied. The~~  
11 ~~commission or any person may file a complaint alleging that the rates~~  
12 ~~charged by a telecommunications company under an alternative form of~~  
13 ~~regulation are unfair, unjust, unreasonable, unduly discriminatory, or~~  
14 ~~are otherwise not consistent with the requirements of chapter 101, Laws~~  
15 ~~of 1989: PROVIDED, That the complainant shall bear the burden of~~  
16 ~~proving the allegations in the complaint)) in the manner requested by~~  
17 ~~the company.~~

18 (7) ~~This section does not limit the right of the commission or any~~  
19 ~~person to file a complaint against a telecommunications company under~~  
20 ~~the provisions of RCW 80.04.110 alleging a violation of the rates,~~  
21 ~~terms, or conditions of an alternative form of regulation approved~~  
22 ~~under this section. Notwithstanding the requirement of RCW~~  
23 ~~80.04.110(1), a complaint may be entertained by the commission as to~~  
24 ~~the reasonableness of the schedule of the rates or charges of any~~  
25 ~~telecommunications company subject to an alternative form of regulation~~  
26 ~~approved under this section upon petition by any customer of the~~  
27 ~~company. The complainant shall bear the burden of proving the~~  
28 ~~allegation in any such complaint."~~

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32 On page 1, line 2 of the title, after "companies;" strike the  
33 remainder of the title and insert "and amending RCW 80.36.135."

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