

HOUSE BILL ANALYSIS

HB 1436

Title: An Act relating to promoting the deployment of advanced telecommunications services and high bandwidth infrastructure.

Brief Description: Creating price cap regulation for electing incumbent local exchange carriers.

Sponsors: Representatives Radcliff, Kessler, Poulsen, Lisk, Grant, Morris, Wensman, Mastin, Dickerson, Kastama, DeBolt, Benson, Huff, McMorris, Gombosky, Lantz, Reardon, Delvin and Thomas.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Meeting Date: February 5, 1999

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Background:

Local exchange carriers (LECs) provide local exchange services and are generally referred to as local telephone companies. Incumbent local exchange carriers (ILECs) are former monopoly LECs. Whether, and the extent to which, a LEC or service rate is regulated by the WUTC depends on how a company or service is classified. A telecommunications company or service is not subject to rate regulation by the WUTC if the company or the service is classified as competitive by the WUTC.

Rate-of-Return (ROR) Regulation

The default form of regulation for LECs is rate-of-return, rate-base (ROR) regulation. Under ROR regulation, the WUTC decides how much a LEC may earn and permits the LEC to set rates calculated to produce that amount. As long as the LEC's earnings do not exceed the allowable maximum, the WUTC will disallow a rate only if the rate is not fair, just, reasonable and sufficient, or if the rate is unjustly discriminatory or unduly prejudicial.

Alternative Form of Regulation (AFOR)

Telecommunications companies subject to ROR regulation before July 23, 1989 are eligible to apply for an AFOR of their own design. The WUTC can accept, reject

or modify a plan in an AFOR application. Currently, there are no telecommunications companies regulated under an AFOR. Only one AFOR has ever been in place. It allowed for regulation that permitted profit sharing between an ILEC and consumers of its telephone services.

Classification as Competitive

A telecommunications company or service is not subject to rate regulation by the WUTC if the company or the service is classified as competitive by the WUTC. Effective competition, a requirement for classification, means customers have alternative service providers and there is no significant captive customer base. A telecommunications company subject to rate-of-return regulation may have some of its services classified as competitive services. That means the company can set any price for the service, so long as it covers the cost of provision. However, profits that such a company earns on its competitive services are taken into account by the WUTC in determining whether the company is earning a reasonable rate of return.

Summary:

The Legislature declares that ROR regulation is not the most efficient way of facilitating telecommunication infrastructure improvements while keeping rates for basic service low. The Legislature declares that price cap regulation will fulfill a number of telecommunication policy goals.

An ILEC may elect to be regulated under price cap regulation. The laws regarding AFOR do not apply to an ILEC electing price cap regulation under this section. An ILEC chooses price cap regulation by filing a notice with the WUTC. Once an ILEC has made this election, it cannot go back to ROR regulation. All rates, terms, and conditions for services provided by the ILEC on the date of election are deemed fair, just, and reasonable.

Customers can enforce quality of service rules and standards. The WUTC must complete a proceeding within 180 days of the effective date of the price cap legislation, ensuring that quality of service standards are applied equally to all telecommunications providers. Telecommunications companies can petition the WUTC to enforce rules, standards and conditions related to wholesale services.

Rates for basic telephone services that were in effect on the date an ILEC elects price cap regulation are capped at that amount. Rates for additional services are capped for three years. An electing ILEC may change rates on ten days notice, without WUTC approval, so long as the new rates do not exceed the maximum limits described above.

Rate caps do not apply to services defined as competitive. Services will be defined as competitive within a geographic area and for a specific customer class. The WUTC must make a determination of competitiveness within thirty days of receiving a petition from an electing ILEC. In reaching its decision, the WUTC must give great weight to whether other telecommunications companies are offering or could easily offer like or similar services to a majority of customers within the same geographic area and customer class.

Price cap regulation will replace ROR regulation for electing ILECs. The WUTC can no longer consider an electing ILEC's profits when overseeing the ILEC. Additionally, electing ILECs are no longer subject to a number of laws that relate to ROR regulation.

Electing ILECs are also exempt from current laws prohibiting unreasonable preference and rate discrimination. New unreasonable preference and rate discrimination prohibitions are imposed upon electing ILECs. The prohibitions do not apply to contracts that are classified as competitive, new services or existing services provided in new areas. WUTC has jurisdiction over determining a violation of these prohibitions.

An electing ILEC can establish rates for new services or existing services in new areas by filing a tariff or a price list with the WUTC. These rates are not subject to WUTC approval. As long as the rates for services are in accordance with this section they are deemed just and reasonable. Additionally, the electing ILEC can bundle any services, with or without discount, so long as the services subject to rate caps can be purchased separately at the capped rate. Electing ILECs cannot engage in price undercutting except for promotions.

Appropriation: None.

Fiscal Note: Requested.

Effective Date of Bill: Ninety days after adjournment of session in which bill is passed.