

# SENATE BILL REPORT

## SB 5752

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As of February 17, 1999

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

**Brief Description:** Allowing a telecommunications company to elect to have its rates determined under a price cap regulation structure.

**Sponsors:** Senators Loveland and Hochstatter.

**Brief History:**

**Committee Activity:** Energy, Technology & Telecommunications: 2/18/99.

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### SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

**Staff:** Karen Kirkpatrick (786-7403)

**Background:** Incumbent local exchange carriers (ILECs) are regulated under rate-of-return regulation. The Washington Utilities and Transportation Commission (WUTC) determines the amount a company may earn and permits the company to set rates calculated to produce that amount. As long as ILEC's earnings do not exceed the allowed amount, WUTC will disallow a rate only if it is not fair, just, reasonable and sufficient.

A telecommunications company or service is not subject to rate regulation by WUTC if the company or the service is classified as competitive. To be classified as competitive, a showing of effective competition is required. Effective competition means the company's customers have reasonably available alternatives and the company does not have a significant captive customer base. A telecommunications company subject to rate-of-return regulation may have some of its services classified as competitive services, allowing it to freely set prices for those services, so long as they are not below cost. Profits a rate-of-return company earns on its competitive services are taken into account by WUTC in determining a reasonable rate-of-return.

ILECs are eligible to petition WUTC for an Alternative Form of Regulation (AFOR). WUTC may accept, reject or modify an AFOR plan. Only one AFOR has been tried to date.

**Summary of Bill:** An Incumbent Local Exchange Carrier (ILEC) may make an irrevocable election to have rates, terms and conditions for its services determined under price cap regulation. The Alternative Form of Regulation (AFOR) provision, rate-of-return provisions and other specified provisions, currently in statute, do not apply to a company electing price cap regulation. The commission must not consider earnings of an electing company.

Upon filing a notice of election, all rates, terms, and conditions in effect at the time are deemed fair, just, and reasonable. An electing company may establish rates for new

services, or existing services deployed in exchange or wire centers where they are not deployed at the date of election, by filing a tariff or price list effective upon filing and not subject to commission approval.

The rates for basic services in effect on the date of filing must be the maximum that an electing ILEC may charge for such services. The rates for other services must be the maximum that ILEC may charge for three years. Government mandated charges are not part of ILEC rates for purposes of the rate cap. An electing company may adjust rates effective on ten days notice without commission approval, so long as no rate exceeds the maximum as described above.

The price cap does not apply to services classified as competitive. In determining if a service is competitive, great weight must be given to whether other telecommunications companies are offering, or can easily offer, similar services to a majority of customers within the relevant customer class or exchange.

A customer's right to enforce quality of service rules and standards and a telecommunications company's right to enforce rules or agreements related to wholesale services are not restricted. The commission must complete a proceeding to ensure equal application of service quality rules and standards to all telecommunications providers within 180 days.

Unreasonable preferences and rate discrimination provisions are replaced by similar provisions that exempt new services or existing services deployed in exchanges or wirecenters where not deployed on the date of election.

An electing company may package services, provided capped services may be purchased separately at the existing tariff rate. The electing company must not offer services at rates below cost except promotional offerings.

An intent section is included and other clarifying and technical issues are addressed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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