

SENATE BILL REPORT

SB 5947

As of March 1, 1999

Title: An act relating to telecommunications companies.

Brief Description: Allowing for expedited resolutions of contested telecommunications issues.

Sponsors: Senator Jacobsen.

Brief History:

Committee Activity: Energy, Technology & Telecommunications: 3/2/99.

SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

Staff: Karen Kirkpatrick (786-7403)

Background: The Federal Telecommunication Act of 1996 requires incumbent local exchange carriers (ILECs) to share access to their networks with competitive entrants through resale, interconnection, and the lease of unbundled network elements for the purpose of promoting telecommunications competition.

Interconnection is accomplished through negotiated or arbitrated agreements between the companies that are then approved by the Washington Utilities and Transportation Commission (WUTC). Disputes that arise between companies relating to their interconnection agreements may be taken to the WUTC for resolution. The WUTC recently implemented new rules governing the dispute resolution process.

Summary of Bill: The WUTC is authorized to handle, on an expedited basis, any complaint by a telecommunications company for violation of: (1) interconnection obligations; (2) an interconnection agreement approved by the commission; or (3) any act identified by rule as preventing a barrier to entry.

A complainant must serve notice of intent to file a complaint and provide the defendant 48 hours to correct a violation. If not corrected, the complainant must file and serve a complaint, an application for expedited review, and any petition for emergency relief. The defendant has seven days to answer a complaint and an expedited discovery schedule is established.

After an answer is filed, the WUTC must, within three working days, determine whether to approve or deny the proceeding. In determining whether to approve an expedited review, the WUTC must consider the likelihood of irreparable harm in the complaining company's ability to serve its customers if the violation continues.

If expedited review is granted, the WUTC must designate a presiding officer. The presiding officer must schedule a prehearing conference, resolve outstanding discovery disputes,

establish a schedule for completion of discovery, confirm mediation is under way, and schedule a hearing to commence within 30 days of the complaint being filed.

The presiding officer must issue a written decision within 45 days of filing with directions, a deadline for correcting the violation, and penalties. It must be considered a final order unless exceptions are filed or the WUTC takes up the matter on its own motion within seven days. If exceptions are filed or the WUTC opts to review the decision, the WUTC must have 15 days to issue a final order. Any party may file a petition for reconsideration of a final order as provided for by rule.

At least one mediation session must be conducted prior to the date scheduled for a prehearing conference. Any agreement of the parties must be submitted to the mediator for approval and approval must be granted unless the agreement is based on a mistake in material fact or not in the public interest. The agreement must constitute a final order unless the WUTC enters its own order within six working days.

The WUTC may concurrently issue an order granting emergency relief without an evidentiary hearing. To issue an order for emergency relief, the WUTC must make certain findings including likelihood of success on the merits, likelihood of irreparable harm, technical feasibility of the relief requested, and whether relief is in the public interest. An order for emergency relief shall direct the defendant to act or refrain from acting as necessary to mitigate the harm; set a deadline for compliance; and remain in effect until a final order is issued.

The WUTC may impose penalties up to \$100,000 per violation for each day beyond a deadline set in a decision, mediation agreement, or emergency order. Penalty payments must be made to the public service revolving fund within 30 days of an order imposing penalties. The WUTC is authorized to apply to a court for an order requiring payment.

These provisions govern over differing provisions in the Administrative Procedure Act. The WUTC may adopt rules, obtain external resources, and establish fees.

Appropriation: None.

Fiscal Note: Requested February 19,1999.

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