
HOUSE BILL 1436

State of Washington

56th Legislature

1999 Regular Session

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

Read first time . Referred to Committee on .

1 AN ACT Relating to promoting the deployment of advanced
2 telecommunications services and high bandwidth infrastructure; adding
3 new sections to chapter 80.36 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature declares that changes in
6 technology and the structure of the telecommunications industry have
7 produced conditions under which traditional rate of return, rate base
8 regulation of telecommunications companies is not the most efficient
9 means of facilitating the broad deployment of advanced
10 telecommunications services and high bandwidth infrastructure, while
11 providing rate certainty to basic consumers. The legislature further
12 declares that price cap regulation, as defined in this section, will
13 reduce regulatory delay and costs, encourage innovation in services,
14 promote efficiency, facilitate the broad dissemination of new
15 technologies to all classes of ratepayers, enhance the ability of
16 telecommunications companies to respond to competition, ensure that
17 telecommunications companies do not have the opportunity to exercise
18 substantial market power absent effective competition, and provide
19 fair, just, and reasonable rates for all ratepayers.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 80.36 RCW
2 to read as follows:

3 (1) Any incumbent local exchange carrier may elect to have the
4 rates, terms, and conditions for its telecommunications services
5 determined under the provisions of this section. The provisions of RCW
6 80.36.135 are separate and distinct from this section and do not apply
7 to companies regulated under this section.

8 (2) An incumbent local exchange carrier shall file a notice of its
9 intent with the commission to be an electing company and to be
10 regulated under this section. A company that so elects may not later
11 rescind that election and return to its preelection form of regulation.

12 (3) Upon such a filing, all rates, terms, and conditions for the
13 services provided by that incumbent local exchange carrier contained in
14 the tariffs, price lists, or end-user contracts that were in effect on
15 the date of election under this section shall be deemed fair, just, and
16 reasonable.

17 (4) Nothing in this section shall restrict any customer's right to
18 enforce any relevant quality of service rules and standards. Not later
19 than one hundred eighty days from the effective date of this section,
20 the commission shall complete a proceeding to ensure that all such
21 rules and standards are applied equally to all telecommunications
22 providers.

23 (5) Nothing in this section shall restrict any telecommunications
24 company's right to petition the commission to enforce rules, standards,
25 and prices related to the provision of wholesale services.

26 (6) The rates for basic telecommunications services, as defined in
27 RCW 80.36.600(7)(b), that were in effect on the date of filing of a
28 notice of election by a local exchange carrier under subsection (2) of
29 this section, shall be the maximum that the local exchange carrier may
30 charge for such services. The rates for other services offered by the
31 company, in the exchange or wire center areas they are offered at the
32 time of such filing, shall be the maximum that the local exchange
33 carrier may charge for a period of three years after such a filing.
34 Government mandated charges, including but not limited to those for
35 excise or gross receipts taxes, 911 service, the Washington telephone
36 assistance program, or universal service are not part of a local
37 exchange carrier's rates. An electing company may adjust rates subject
38 to this subsection effective on ten days' notice, without commission

1 approval, so long as no rate exceeds the maximum set by this
2 subsection.

3 (7) Subsection (6) of this section does not apply to services
4 classified as competitive under RCW 80.36.330. Services shall be
5 classified as competitive under RCW 80.36.330 in a geographic area such
6 as a company's exchange or wire center serving area, or geographically
7 defined subunit thereof, and for a specific customer class. The
8 commission shall make a determination under this subsection within
9 thirty days of receiving a petition from an electing company and shall
10 give great weight to whether other telecommunications companies are
11 offering or can easily offer like or similar services to a majority of
12 customers within the relevant customer class and exchange or wire
13 center serving areas.

14 (8) Price cap regulation shall replace the current rate base, rate
15 of return form of regulation by the commission of an electing company.
16 The commission shall not consider rate of return, rate base or the
17 earnings of an electing company in connection with its oversight of an
18 electing company's operations.

19 (9) In order to eliminate regulatory requirements not needed to
20 implement this section, an electing company is not subject to the
21 following statutory provisions: RCW 80.04.130 (1) and (2), 80.04.300
22 through 80.04.360, 80.36.110, 80.36.140, 80.36.150, and chapter 80.16
23 RCW.

24 (10) Electing companies are exempt from the provisions of RCW
25 80.36.170 and 80.36.180, and are instead subject to the provisions of
26 sections 3 and 4 of this act.

27 (11) An electing company may establish rates for new services or
28 existing services deployed in exchange or wire center serving areas
29 where they are not deployed at the date of election by filing a tariff
30 or price list with the commission. The tariff or price list shall be
31 effective upon filing or at such future time as the company shall
32 designate, and is not subject to commission approval. The tariffs or
33 price lists shall be printed and kept open to public inspection at
34 those locations the commission may designate. So long as rates for
35 services are in accordance with this section, the rates are deemed just
36 and reasonable.

37 (12) An electing company may package any of its services with any
38 other service it or its affiliates may offer, with or without a
39 discount, provided that services whose rates are capped under this

1 section may be purchased separately at the existing tariff rate. An
2 electing company shall not offer services at rates that are below cost
3 except pursuant to a promotional offering.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.36 RCW
5 to read as follows:

6 No telecommunications company shall make or give any undue or
7 unreasonable preference or advantage to any person, corporation, or
8 locality, or subject any particular person, corporation, or locality to
9 any undue or unreasonable prejudice or disadvantage in any respect
10 whatsoever. The commission shall have primary jurisdiction to
11 determine whether any rate, regulation, or practice of a
12 telecommunications company violates this section. This section does
13 not apply to contracts offered by a telecommunications company
14 classified as competitive under RCW 80.36.320 or to services classified
15 as competitive under RCW 80.36.330 or to new services or to existing
16 services deployed in exchange or wire center serving areas where they
17 are not deployed at the date of election offered under section 2(11) of
18 this act.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.36 RCW
20 to read as follows:

21 No telecommunications company shall, directly or indirectly, or by
22 any special rate, rebate, drawback, or other device or method, unduly
23 or unreasonably charge, demand, collect, or receive from any person or
24 corporation a greater or less compensation for any service rendered or
25 to be rendered with respect to communication by telecommunications or
26 in connection therewith, except as authorized in this title or Title 81
27 RCW than it charges, demands, collects, or receives from any other
28 person or corporation for doing a like and contemporaneous service with
29 respect to communication by telecommunications under the same or
30 substantially the same circumstances and conditions. The commission
31 shall have primary jurisdiction to determine whether any rate,
32 regulation, or practice of a telecommunications company violates this
33 section. This section does not apply to contracts offered by a
34 telecommunications company classified as competitive under RCW
35 80.36.320 or for services classified as competitive under RCW 80.36.330
36 or to new services or to existing services deployed in exchange or wire

1 center serving areas where they are not deployed at the date of
2 election offered under section 2(11) of this act.

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