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HOUSE BILL 1528

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State of Washington

57th Legislature

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By Representatives Poulsen, Crouse, Ruderman and Delvin; by request of Utilities & Transportation Commission

Read first time 01/29/2001. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to telecommunications; amending RCW 80.36.320 and  
2 80.36.330; and adding a new section to chapter 80.36 RCW.

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

4 **Sec. 1.** RCW 80.36.320 and 1998 c 337 s 5 are each amended to read  
5 as follows:

6 (1) The commission shall classify a telecommunications company as  
7 a competitive telecommunications company if the services it offers are  
8 subject to effective competition. Effective competition means that the  
9 company's customers have reasonably available alternatives and that the  
10 company does not have a significant captive customer base. In  
11 determining whether a company is competitive, factors the commission  
12 shall consider include but are not limited to:

13 (a) The number and sizes of alternative providers of service;

14 (b) The extent to which services are available from alternative  
15 providers in the relevant market;

16 (c) The ability of alternative providers to make functionally  
17 equivalent or substitute services readily available at competitive  
18 rates, terms, and conditions; and

1 (d) Other indicators of market power which may include market  
2 share, growth in market share, ease of entry, and the affiliation of  
3 providers of services.

4 The commission shall conduct the initial classification and any  
5 subsequent review of the classification in accordance with such  
6 procedures as the commission may establish by rule.

7 ~~(2) ((Competitive telecommunications companies shall be subject to  
8 minimal regulation. Minimal regulation means that competitive  
9 telecommunications companies may file, instead of tariffs, price lists  
10 that shall be effective after ten days' notice to the commission and  
11 customers. The commission shall prescribe the form of notice. The  
12 commission may also waive other regulatory requirements under this  
13 title for competitive telecommunications companies when it determines  
14 that competition will serve the same purposes as public interest  
15 regulation. The commission may waive different regulatory requirements  
16 for different companies if such different treatment is in the public  
17 interest.))~~

18 A competitive telecommunications company shall at a minimum:

19 (a) Keep its accounts according to regulations as determined by the  
20 commission;

21 (b) File financial reports with the commission as required by the  
22 commission and in a form and at times prescribed by the commission;

23 (c) ~~((Keep on file at the commission))~~ Maintain such current price  
24 lists and service standards as the commission may require; and

25 (d) Cooperate with commission investigations of customer  
26 complaints.

27 ~~(3) ((When a telecommunications company has demonstrated that the  
28 equal access requirements ordered by the federal district court in the  
29 case of U.S. v. AT&T, 552 F. Supp. 131 (1982), or in supplemental  
30 orders, have been met, the commission shall review the classification  
31 of telecommunications companies providing inter-LATA interexchange  
32 services. At that time, the commission shall classify all such  
33 companies as competitive telecommunications companies unless it finds  
34 that effective competition, as defined in subsection (1) of this  
35 section, does not then exist.))~~

36 ~~(4))~~ The commission may revoke any waivers it grants and may  
37 reclassify any competitive telecommunications company if the revocation  
38 or reclassification would protect the public interest.

1       (~~(5) The commission may waive the requirements of RCW 80.36.170~~  
2 ~~and 80.36.180 in whole or in part for a competitive telecommunications~~  
3 ~~company if it finds that competition will serve the same purpose and~~  
4 ~~protect the public interest.))~~

5       **Sec. 2.** RCW 80.36.330 and 1998 c 337 s 6 are each amended to read  
6 as follows:

7       (1) The commission may classify a telecommunications service  
8 provided by a telecommunications company as a competitive  
9 telecommunications service if the service is subject to effective  
10 competition. Effective competition means that customers of the service  
11 have reasonably available alternatives and that the service is not  
12 provided to a significant captive customer base. In determining  
13 whether a service is competitive, factors the commission shall consider  
14 include but are not limited to:

15       (a) The number and size of alternative providers of services;

16       (b) The extent to which services are available from alternative  
17 providers in the relevant market;

18       (c) The ability of alternative providers to make functionally  
19 equivalent or substitute services readily available at competitive  
20 rates, terms, and conditions; and

21       (d) Other indicators of market power, which may include market  
22 share, growth in market share, ease of entry, and the affiliation of  
23 providers of services.

24       (2) (~~When the commission finds that a telecommunications company~~  
25 ~~has demonstrated that a telecommunications service is competitive, the~~  
26 ~~commission may permit the service to be provided under a price list~~  
27 ~~effective on ten days notice to the commission and customers. The~~  
28 ~~commission shall prescribe the form of notice. The commission may~~  
29 ~~adopt procedural rules necessary to implement this section.~~

30       ~~(3))~~ Prices or rates charged for competitive telecommunications  
31 services shall cover their cost. The commission shall determine proper  
32 cost standards to implement this section, provided that in making any  
33 assignment of costs or allocating any revenue requirement, the  
34 commission shall act to preserve affordable universal  
35 telecommunications service.

36       (~~(4))~~ (3) The commission may investigate prices for competitive  
37 telecommunications services upon complaint. In any complaint  
38 proceeding initiated by the commission, the telecommunications company

1 providing the service shall bear the burden of proving that the prices  
2 charged cover cost, and are fair, just, and reasonable.

3 ~~((+5))~~ (4) Telecommunications companies shall provide the  
4 commission with all data it deems necessary to implement this section.

5 ~~((+6))~~ (5) No losses incurred by a telecommunications company in  
6 the provision of competitive services may be recovered through rates  
7 for noncompetitive services. The commission may order refunds or  
8 credits to any class of subscribers to a noncompetitive  
9 telecommunications service which has paid excessive rates because of  
10 below cost pricing of competitive telecommunications services.

11 ~~((+7))~~ (6) The commission may reclassify any competitive  
12 telecommunications service if reclassification would protect the public  
13 interest.

14 ~~((+8) The commission may waive the requirements of RCW 80.36.170  
15 and 80.36.180 in whole or in part for a service classified as  
16 competitive if it finds that competition will serve the same purpose  
17 and protect the public interest.))~~

18 NEW SECTION. Sec. 3. A new section is added to chapter 80.36 RCW  
19 to read as follows:

20 (1) The definitions in this subsection apply throughout this  
21 section unless the context clearly requires otherwise.

22 (a) "Competitive telecommunications service" includes any service  
23 provided by a company classified as competitive under RCW 80.36.320 and  
24 any service classified as competitive under RCW 80.36.330.

25 (b) "Price list" means a written offer containing the maximum  
26 prices, terms, and conditions under which a competitive  
27 telecommunications service is offered.

28 (2) Competitive telecommunications services shall be subject to  
29 minimal regulation as provided for in this section.

30 (a) The commission shall waive the application to competitive  
31 telecommunications service of any regulatory requirement under this  
32 title if it determines that competition will serve the same purposes as  
33 public interest regulation. The commission may waive different  
34 regulatory requirements for different types of service or different  
35 types of companies if the treatment is in the public interest and does  
36 not result in unfair competitive advantage.

1           (b) The commission may permit or require that telecommunications  
2 companies maintain publicly accessible price lists or file price lists  
3 with the commission.

4           (c) Each telecommunications company shall notify customers of any  
5 change in the prices, terms, or conditions under which any competitive  
6 telecommunications service is offered or provided. The commission may  
7 prescribe the form, manner, and timing of the notice.

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