
SENATE BILL 5124

State of Washington

57th Legislature

2001 Regular Session

By Senator Jacobsen

Read first time 01/11/2001. Referred to Committee on Economic Development & Telecommunications.

1 AN ACT Relating to customer notice requirements for competitive
2 telecommunications companies and services; and amending RCW
3 80.36.320 and 80.36.330.

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

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

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

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

1 equivalent or substitute services readily available at competitive
2 rates, terms, and conditions; and

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

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

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

21 (a) Keep its accounts according to regulations as determined by
22 the commission;

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

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

28 (d) Notify, in writing, each affected customer, in a manner
29 prescribed by the commission, at least ten days prior to the
30 effective date of a change in price or any other material term or
31 condition of a customer's service agreement; and

32 (e) Cooperate with commission investigations of customer
33 complaints.

34 (3) When a telecommunications company has demonstrated that the
35 equal access requirements ordered by the federal district court in
36 the case of U.S. v. AT&T, 552 F. Supp. 131 (1982), or in
37 supplemental orders, have been met, the commission shall review
38 the classification of telecommunications companies providing inter-

1 LATA interexchange services. At that time, the commission shall
2 classify all such companies as competitive telecommunications
3 companies unless it finds that effective competition, as defined
4 in subsection (1) of this section, does not then exist.

5 (4) The commission may revoke any waivers it grants and may
6 reclassify any competitive telecommunications company if the
7 revocation or reclassification would protect the public interest.

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

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

14 (1) The commission may classify a telecommunications service
15 provided by a telecommunications company as a competitive
16 telecommunications service if the service is subject to effective
17 competition. Effective competition means that customers of the
18 service have reasonably available alternatives and that the
19 service is not provided to a significant captive customer base. In
20 determining whether a service is competitive, factors the
21 commission shall consider include but are not limited to:

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

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

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

28 (d) Other indicators of market power, which may include market
29 share, growth in market share, ease of entry, and the affiliation
30 of providers of services.

31 (2) When the commission finds that a telecommunications company
32 has demonstrated that a telecommunications service is competitive,
33 the commission may permit the service to be provided under a price
34 list effective on ten days notice to the commission and
35 customers. A telecommunications company providing a competitive
36 telecommunications service shall notify, in writing, each affected
37 customer at least ten days prior to the effective date of a change

1 in price or any other material term or condition of a customer's
2 service agreement. The commission shall prescribe the form of
3 notice. The commission may adopt procedural rules necessary to
4 implement this section.

5 (3) Prices or rates charged for competitive telecommunications
6 services shall cover their cost. The commission shall determine
7 proper cost standards to implement this section, provided that in
8 making any assignment of costs or allocating any revenue
9 requirement, the commission shall act to preserve affordable
10 universal telecommunications service.

11 (4) The commission may investigate prices for competitive
12 telecommunications services upon complaint. In any complaint
13 proceeding initiated by the commission, the telecommunications
14 company providing the service shall bear the burden of proving
15 that the prices charged cover cost, and are fair, just, and
16 reasonable.

17 (5) Telecommunications companies shall provide the commission
18 with all data it deems necessary to implement this section.

19 (6) No losses incurred by a telecommunications company in the
20 provision of competitive services may be recovered through rates
21 for noncompetitive services. The commission may order refunds or
22 credits to any class of subscribers to a noncompetitive
23 telecommunications service which has paid excessive rates because
24 of below cost pricing of competitive telecommunications services.

25 (7) The commission may reclassify any competitive
26 telecommunications service if reclassification would protect the
27 public interest.

28 (8) The commission may waive the requirements of RCW 80.36.170
29 and 80.36.180 in whole or in part for a service classified as
30 competitive if it finds that competition will serve the same
31 purpose and protect the public interest.

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