
SUBSTITUTE SENATE BILL 6473

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Morton and Rockefeller)

READ FIRST TIME 01/27/06.

1 AN ACT Relating to eliminating the requirement that
2 telecommunications companies file price lists; amending RCW 80.36.100,
3 80.36.110, 80.36.320, and 80.36.330; and adding new sections to chapter
4 80.36 RCW.

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

6 **Sec. 1.** RCW 80.36.100 and 1989 c 101 s 9 are each amended to read
7 as follows:

8 (1) Every telecommunications company shall file with the commission
9 and shall print and keep open to public inspection at such points as
10 the commission may designate, schedules showing the rates, tolls,
11 rentals, and charges of such companies for messages, conversations and
12 services rendered and equipment and facilities supplied for messages
13 and services to be performed within the state between each point upon
14 its line and all other points thereon, and between each point upon its
15 line and all points upon every other similar line operated or
16 controlled by it, and between each point on its line or upon any line
17 leased, operated or controlled by it and all points upon the line of
18 any other similar company, whenever a through service and joint rate
19 shall have been established or ordered between any two such points.

1 (2) If no joint rate covering a through service has been
2 established, the several companies in such through service shall file,
3 print and keep open to public inspection as aforesaid the separately
4 established rates, tolls, rentals, and charges applicable for such
5 through service.

6 (3) The schedules printed as aforesaid shall plainly state the
7 places between which telecommunications service, or both, will be
8 rendered, and shall also state separately all charges and all
9 privileges or facilities granted or allowed, and any rules or
10 regulations which may in anywise change, affect or determine any of the
11 aggregate of the rates, tolls, rentals or charges for the service
12 rendered.

13 (4) A schedule shall be plainly printed in large type, and a copy
14 thereof shall be kept by every telecommunications company readily
15 accessible to and for convenient inspection by the public at such
16 places as may be designated by the commission, which schedule shall
17 state the rates charged from such station to every other station on
18 such company's line, or on any line controlled and used by it within
19 the state.

20 (a) All or any of such schedules kept as aforesaid shall be
21 immediately produced by such telecommunications company upon the demand
22 of any person.

23 (b) A notice printed in bold type, and stating that such schedules
24 are on file and open to inspection by any person, the places where the
25 same are kept, and that the agent will assist such person to determine
26 from such schedules any rate, toll, rental, rule or regulation which is
27 in force shall be kept posted by every telecommunications company in a
28 conspicuous place in every station or office of such company.

29 (5) This section does not apply to telecommunications companies
30 classified as competitive under RCW 80.36.320 or to telecommunications
31 services classified as competitive under RCW 80.36.330.

32 **Sec. 2.** RCW 80.36.110 and 2003 c 189 s 2 are each amended to read
33 as follows:

34 (1) Except as provided in subsection (2) of this section, unless
35 the commission otherwise orders, no change shall be made in any rate,
36 toll, rental, or charge, that was filed and published by any

1 telecommunications company in compliance with the requirements of RCW
2 80.36.100, except after notice as required in this subsection.

3 (a) For changes to any rate, toll, rental, or charge filed and
4 published in a tariff, the company shall provide thirty days' notice to
5 the commission and publication for thirty days as required in the case
6 of original schedules in RCW 80.36.100. The notice shall plainly state
7 the changes proposed to be made in the schedule then in force, and the
8 time when the changed rate, toll, or charge will go into effect, and
9 all proposed changes shall be shown by printing, filing and publishing
10 new schedules, or shall be plainly indicated upon the schedules in
11 force at the time and kept open to public inspection. Proposed changes
12 may be suspended by the commission within thirty days or before the
13 stated effective date of the proposed change, whichever is later.

14 ~~(b) ((For changes to any rate, toll, rental, or charge filed and
15 published in a price list, the company shall provide ten days' notice
16 to the commission and customers. The commission shall prescribe the
17 form of notice.~~

18 ~~(e))~~ The commission for good cause shown may allow changes in
19 rates, charges, tolls, or rentals without requiring the notice and
20 publication provided for in (a) ~~((or (b)))~~ of this subsection, by an
21 order or rule specifying the change to be made and the time when it
22 takes effect, and the manner in which the change will be filed and
23 published.

24 ~~((d))~~ (c) When any change is made in any rate, toll, rental, or
25 charge, the effect of which is to increase any rate, toll, rental, or
26 charge then existing, attention shall be directed on the copy filed
27 with the commission to the increase by some character immediately
28 preceding or following the item in the schedule, which character shall
29 be in such a form as the commission may designate.

30 (2)(a) A telecommunications company may file a tariff that
31 decreases any rate, charge, rental, or toll with ten days' notice to
32 the commission and publication without receiving a special order from
33 the commission when the filing does not contain an offsetting increase
34 to another rate, charge, rental, or toll, and the filing company agrees
35 not to file for an increase to any rate, charge, rental, or toll to
36 recover the revenue deficit that results from the decrease for a period
37 of one year.

1 (b) A telecommunications company may file a promotional offering to
2 be effective, without receiving a special order from the commission,
3 upon filing with the commission and publication. For the purposes of
4 this section, "promotional offering" means a tariff (~~or price list~~)
5 that, for a period of up to ninety days, waives or reduces charges or
6 conditions of service for existing or new subscribers for the purpose
7 of retaining or increasing the number of customers who subscribe to or
8 use a service.

9 **Sec. 3.** RCW 80.36.320 and 2003 c 189 s 3 are each amended to read
10 as follows:

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

- 18 (a) The number and sizes of alternative providers of service;
- 19 (b) The extent to which services are available from alternative
20 providers in the relevant market;
- 21 (c) The ability of alternative providers to make functionally
22 equivalent or substitute services readily available at competitive
23 rates, terms, and conditions; and
- 24 (d) Other indicators of market power which may include market
25 share, growth in market share, ease of entry, and the affiliation of
26 providers of services.

27 The commission shall conduct the initial classification and any
28 subsequent review of the classification in accordance with such
29 procedures as the commission may establish by rule.

30 (2) Competitive telecommunications companies shall be subject to
31 minimal regulation. (~~Minimal regulation means that competitive~~
32 ~~telecommunications companies may file, instead of tariffs, price~~
33 ~~lists.~~) The commission may (~~also~~) waive (~~other~~) any regulatory
34 requirement(~~s~~) under this title for competitive telecommunications
35 companies when it determines that competition will serve the same
36 purposes as public interest regulation. The commission may waive

1 different regulatory requirements for different companies if such
2 different treatment is in the public interest. A competitive
3 telecommunications company shall at a minimum:

4 (a) Keep its accounts according to regulations as determined by the
5 commission;

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

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

10 ~~(d))~~) Cooperate with commission investigations of customer
11 complaints.

12 ~~(3) ((When a telecommunications company has demonstrated that the
13 equal access requirements ordered by the federal district court in the
14 case of U.S. v. AT&T, 552 F. Supp. 131 (1982), or in supplemental
15 orders, have been met, the commission shall review the classification
16 of telecommunications companies providing inter LATA interexchange
17 services. At that time, the commission shall classify all such
18 companies as competitive telecommunications companies unless it finds
19 that effective competition, as defined in subsection (1) of this
20 section, does not then exist.~~

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

24 ~~((+5))~~) (4) The commission may waive the requirements of RCW
25 80.36.170 and 80.36.180 in whole or in part for a competitive
26 telecommunications company if it finds that competition will serve the
27 same purpose and protect the public interest.

28 **Sec. 4.** RCW 80.36.330 and 2003 c 189 s 4 are each amended to read
29 as follows:

30 (1) The commission may classify a telecommunications service
31 provided by a telecommunications company as a competitive
32 telecommunications service if the service is subject to effective
33 competition. Effective competition means that customers of the service
34 have reasonably available alternatives and that the service is not
35 provided to a significant captive customer base. In determining
36 whether a service is competitive, factors the commission shall consider
37 include but are not limited to:

- 1 (a) The number and size of alternative providers of services;
2 (b) The extent to which services are available from alternative
3 providers in the relevant market;
4 (c) The ability of alternative providers to make functionally
5 equivalent or substitute services readily available at competitive
6 rates, terms, and conditions; and
7 (d) Other indicators of market power, which may include market
8 share, growth in market share, ease of entry, and the affiliation of
9 providers of services.

10 ~~(2) ((When the commission finds that a telecommunications company~~
11 ~~has demonstrated that a telecommunications service is competitive, the~~
12 ~~commission may permit the service to be provided under a price list.~~
13 ~~The commission may adopt procedural rules necessary to implement this~~
14 ~~section.))~~ Competitive telecommunications services are subject to
15 minimal regulation. The commission may waive any regulatory
16 requirement under this title for companies offering a competitive
17 telecommunications service when it determines that competition will
18 serve the same purposes as public interest regulation. The commission
19 may waive different regulatory requirements for different companies if
20 such different treatment is in the public interest. A company offering
21 a competitive telecommunications service shall at a minimum:

- 22 (a) Keep its accounts according to rules adopted by the commission;
23 (b) File financial reports for competitive telecommunications
24 services with the commission as required by the commission and in a
25 form and at times prescribed by the commission; and
26 (c) Cooperate with commission investigations of customer
27 complaints.

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

34 (4) The commission may investigate prices for competitive
35 telecommunications services upon complaint. In any complaint
36 proceeding initiated by the commission, the telecommunications company
37 providing the service shall bear the burden of proving that the prices
38 charged cover cost, and are fair, just, and reasonable.

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

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

9 (7) The commission may reclassify any competitive
10 telecommunications service if reclassification would protect the public
11 interest.

12 (8) The commission may waive the requirements of RCW 80.36.170 and
13 80.36.180 in whole or in part for a service classified as competitive
14 if it finds that competition will serve the same purpose and protect
15 the public interest.

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

18 (1) Until June 30, 2007, a telecommunications company may continue
19 to maintain on file with the commission any price list that, pursuant
20 to RCW 80.36.100, 80.36.320, and 80.36.330, was on file and in effect
21 before the effective date of this act. The price list is subject to
22 the statutes and rules in effect immediately before the effective date
23 of this act.

24 (2) The commission may, upon petition by a company with a price
25 list on file before the effective date of this act, extend the deadline
26 in subsection (1) of this section until June 30, 2008. The commission
27 may approve an extension only if the petitioning company demonstrates
28 that it cannot reasonably implement a replacement for its price list by
29 June 30, 2007, and that the extension of time will not result in harm
30 to customers or competition.

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 80.36 RCW
32 to read as follows:

33 Each company withdrawing a filed price list shall provide each
34 customer receiving service under the price list with information about
35 the rates, terms, and conditions under which the service will continue
36 to be provided. If the rates, terms, and conditions do not change upon

1 withdrawal of the price list, such rates, terms, and conditions shall
2 be binding to the same extent as the price list. If any of the rates,
3 terms, and conditions do change upon withdrawal of the price list, the
4 company must provide each customer with a reasonable opportunity to
5 decide whether to accept the changed rate, term, or condition. If a
6 customer does not cancel service within thirty days after notice of the
7 change is given, the customer will be deemed to have accepted all the
8 rates, terms, and conditions offered by the company.

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