Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Innovation, Community & Economic Development, & Veterans Committee

HB 1454

Brief Description: Concerning classification as a competitive telecommunications company for an incumbent local exchange carrier currently operating under an alternative form of regulation authorized by RCW 80.36.135.

Sponsors: Representatives Ryu and Volz.

Brief Summary of Bill

- Specifies that effective competition includes technologies other than traditional landline telephone service for purposes of classifying a telecommunications company as a competitive telecommunications company.
- Allows an incumbent local exchange carrier (ILEC) to elect to be classified as a competitive telecommunications company if the ILEC is operating under an alternative form of regulation and does not receive Universal Communications Services program distributions.

Hearing Date: 2/1/23

Staff: Emily Poole (786-7106).

Background:

The Utilities and Transportation Commission (Commission) is authorized to classify a telecommunications company as a competitive telecommunications company if the services it offers are subject to effective competition. Effective competition means that the company's customers have reasonably available alternatives and that the company does not have a

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significant captive customer base.

In determining whether a company is competitive, the Commission considers:
- the number and sizes of alternative providers of service;
- the extent to which services are available from alternative providers in the relevant market;
- the ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- other indicators of market power, including market share, growth in market share, ease of entry, and the affiliation of providers of services.

Competitive telecommunications companies are subject to minimal regulation. The Commission may waive regulatory requirements under the Commission's authority for competitive telecommunications companies when it determines that competition will serve the same purposes as public interest regulation. The Commission may revoke any waivers it grants and may reclassify any competitive telecommunications company if the revocation or reclassification would protect the public interest.

Telecommunications companies are regulated under a rate of return system. Under certain circumstances, telecommunications companies can be regulated in ways other than the traditional rate of return regulation. For example, a telecommunications company may petition the Commission to be regulated under an alternative form of regulation.

Every telecommunications company is required to file with the Commission schedules showing the rates, tolls, rentals, and charges for messages, conversations, and services rendered. Telecommunications companies classified as competitive are not required to file tariff schedules with the Commission.

Summary of Bill:

In determining whether a telecommunications company's customers have reasonably available alternatives, such that the company's services are subject to effective competition, the Commission must consider alternatives that utilize technologies other than traditional landline telephone service.

The Commission may revoke regulatory waivers and reclassify any competitive telecommunications company if it finds that the company is no longer subject to effective competition and it determines that the revocation or reclassification would protect the public interest.

<u>Election to Be Classified as a Competitive Telecommunications Company</u>.

An incumbent local exchange carrier (ILEC) may elect to be classified as a competitive telecommunications company by providing written notice to the Commission if the ILEC is operating under an alternative form of regulation and does not receive Universal

Communications Services program distributions. The company's alternative form of regulation automatically terminates once competitive classification has been elected.

For companies that elect to be classified as a competitive telecommunications company, for a period of three years after they become competitively classified, the company must:

- not further geographically deaverage the nonrecurring and monthly recurring rates for stand-alone business exchange service and stand-alone residential exchange service in the state; and
- continue to tariff public safety network services to state and county public safety entities necessary for routing and transmission of 911 calls.

For a period of one year after becoming competitively classified, companies may not seek to discontinue flat-rate stand-alone residential or business exchange services throughout an entire wire center in the state. After one year, a telecommunications company may petition the Commission to relieve the company of this restriction. The Commission must approve such a petition if the company can establish:

- the presence in the wire center of at least two other voice service providers, including providers that utilize technologies other than landline service;
- the presence of a service provider that has undertaken a state or federal obligation to provide communications service in the wire center in exchange for receiving a state or federal subsidy; or
- that the company's retail market share of voice service is less than 50 percent in a wire center.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.