

# SENATE BILL REPORT

## ESB 6677

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As Passed Senate, February 11, 2000

**Title:** An act relating to new procedures for alternative forms of regulation of telecommunications companies.

**Brief Description:** Allowing new forms of regulation of telecommunications companies.

**Sponsors:** Senators Brown and Finkbeiner; by request of Governor Locke.

**Brief History:**

**Committee Activity:** Energy, Technology & Telecommunications: 1/20/2000, 2/3/2000 [DPS].

Passed Senate, 2/11/2000, 38-7.

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### SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

**Majority Report:** That Substitute Senate Bill No. 6677 be substituted therefor, and the substitute bill do pass.

Signed by Senators Brown, Chair; Goings, Vice Chair; Fairley, Fraser, Hochstatter and Roach.

**Staff:** William Bridges (786-7424)

**Background:** The Washington Utilities and Transportation Commission (commission) regulates incumbent local exchange carriers (ILECs) under a "rate of return" system. Under this system, a company is basically allowed to charge rates that cover its costs, plus an opportunity to make a fair profit. Since the late 1980s, ILECs have had the option to be regulated under a negotiated alternative to traditional rate of return called "alternative form of regulation" (AFOR).

The commission may authorize AFOR on its own motion or at a company's request. Before approving an AFOR plan, the commission must adopt findings that address a number of policy goals and other criteria, such as the extent to which the plan promotes reasonable rates. The commission may modify a proposed plan, and it may waive certain regulatory requirements under a proposed plan.

After the commission approves an AFOR plan, a company has 60 days to withdraw from the approved plan. The company may also appeal the plan to a court, but that does not extend the 60-day period. The commission may rescind an AFOR plan on its own motion or at the request of any person.

In addition to AFOR, a company may achieve effective deregulation by asking the commission to classify it as a competitive telecommunications company. A company may also seek to have any of its services classified as a competitive telecommunications service.

**Summary of Bill:** Revising approval criteria. The approval criteria for AFOR plans are revised. The commission must consider the following goals when evaluating an AFOR plan: (1) deploying advanced services to underserved areas or customer classes; (2) improving the efficiency of the regulatory process; (3) enhancing competition; (4) enhancing service quality; (5) providing for fair and just rates; and (6) preventing undue or unreasonable prejudice or disadvantage to any particular customer class. The commission no longer needs to make written findings that the AFOR plan meets each goal.

Changing AFOR petitioning requirements. A company's AFOR petition must state the duration of the plan and include a plan for ensuring and enforcing carrier to carrier service quality, including standards and performance measures for interconnection.

Establishing deadlines for approval. The commission has up to six months to accept, modify, or reject an AFOR plan, although it may extend that time for good cause.

Creating a legal presumption in favor of an AFOR plan. The commission must order implementation of an AFOR plan unless it finds that, on balance, an alternative plan as proposed or modified fails to meet the new policy goals.

Changing withdrawal provisions. The 60-day withdrawal period following the commission's approval of an AFOR plan is limited to plans initiated by the commission.

Removing judicial appeal language. Language concerning the judicial appeal of a proposed AFOR plan is removed.

Expanding commission's authority to grant waivers. The commission's authority to grant regulatory waivers is expanded, but it may not waive any legal right contained in specified chapters of the Revised Code of Washington.

Removing authority to rescind AFOR plans on commission's motion. The commission's authority to rescind AFOR plans on its own motion is removed. The commission may only rescind or modify AFOR plans at the request of the company operating under the plan. The commission must hold a hearing before rescinding or modifying a plan.

Preserving the right to file complaints. The commission or any person may file a complaint against a company operating under an AFOR. The complaint must be filed according to a specified process and must allege a violation of the rates, terms, or conditions of the AFOR. Complainants bear the burden of proving their allegations.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** WUTC should have authority to modify an AFOR plan before it is adopted; no authority to modify once adopted. AFOR should be conditioned on effective competition, consumer safeguards, wholesale and retail service quality standards, and capital investment in rural areas. Other interested parties should be allowed to petition for

rescission or modification of an existing plan. The bill is a baby step toward price cap regulation. The bill does not address ILEC obligations under federal act. A nine-month petition deadline should be changed to four months.

**Testimony Against:** The section concerning advanced telecommunications affiliates should be dropped. There are no sufficient protections against anticompetitive practices.

**Testified:** PRO: Bruce Shaull, Sprint (section 1); Kaylene Anderson, Nextlink (concerns); Gary Gardner, WA Assoc. of Internet Service Providers (concerns); Gary Strannigan, Wash. Citizens for a Sound Economy; Tom Walker, U.S. West; Jerri Wood, Communications Workers of America (concerns); Bill Gavin, MCI (concerns); Tom Kilbane, American Electronics Assoc. (concerns); Greg Pierce, AT&T (concerns); Rosemary Williamson, GTE (section 1); CON: Bruce Shaull, Sprint (section 2); Rosemary Williamson, GTE (section 2).