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HOUSE BILL 2103

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Morris, Crouse and Wallace

Read first time 02/08/2007.      Referred to Committee on Technology,  
Energy & Communications.

1            AN ACT Relating to competitive classification of telecommunications  
2 services; and amending RCW 80.36.330.

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

4            **Sec. 1.** RCW 80.36.330 and 2006 c 347 s 4 are each amended to read  
5 as follows:

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

14            (a) The number and size of alternative providers of services,  
15 including those not subject to commission jurisdiction;

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 of  
5 providers of services.

6 (2)(a) The commission may also classify as competitive (i) any  
7 telecommunications service or class of service that it finds not to be  
8 an essential service; or (ii) any package or bundle of services where  
9 (A) each essential service in the package or bundle is readily and  
10 separately available to customers at fair, just, and reasonable prices,  
11 and (B) the price of the bundle or package is equal to or greater than  
12 the cost for tariffed services plus the cost of any competitive service  
13 as determined in accordance with subsection (4) of this section.

14 (b) For purposes of this section, the term "essential service"  
15 includes but is not limited to (i) voice grade access to the public  
16 switched network; (ii) local usage; (iii) dual tone multifrequency  
17 signaling or its functional equivalent; (iv) single-party service or  
18 its functional equivalent; (v) access to: (A) Emergency services; (B)  
19 operator services; (C) local directory assistance; (D) telephone relay  
20 services; (E) interexchange service; and (vi) toll limitation and  
21 lifeline service for qualifying low-income consumers.

22 (3) Competitive telecommunications services are subject to minimal  
23 regulation. The commission may waive any regulatory requirement under  
24 this title for companies offering a competitive telecommunications  
25 service when it determines that competition will serve the same  
26 purposes as public interest regulation. The commission may waive  
27 different regulatory requirements for different companies if such  
28 different treatment is in the public interest. A company offering a  
29 competitive telecommunications service shall at a minimum:

30 (a) Keep its accounts according to rules adopted by the commission;

31 (b) File financial reports for competitive telecommunications  
32 services with the commission as required by the commission and in a  
33 form and at times prescribed by the commission; and

34 (c) Cooperate with commission investigations of customer  
35 complaints.

36 ~~((3))~~ (4) Prices or rates charged for competitive  
37 telecommunications services shall cover their cost. The commission  
38 shall determine proper cost standards to implement this section,

1 provided that in making any assignment of costs or allocating any  
2 revenue requirement, the commission shall act to preserve affordable  
3 universal telecommunications service.

4 ~~((4))~~ (5) The commission may investigate prices for competitive  
5 telecommunications services upon complaint. In any complaint  
6 proceeding initiated by the commission, the telecommunications company  
7 providing the service shall bear the burden of proving that the prices  
8 charged cover cost, and are fair, just, and reasonable.

9 ~~((5))~~ (6) Telecommunications companies shall provide the  
10 commission with all data it deems necessary to implement this section.

11 ~~((6))~~ (7) No losses incurred by a telecommunications company in  
12 the provision of competitive services may be recovered through rates  
13 for noncompetitive services. The commission may order refunds or  
14 credits to any class of subscribers to a noncompetitive  
15 telecommunications service which has paid excessive rates because of  
16 below cost pricing of competitive telecommunications services.

17 ~~((7))~~ (8) The commission may reclassify any competitive  
18 telecommunications service if reclassification would protect the public  
19 interest.

20 ~~((8))~~ (9) The commission may waive the requirements of RCW  
21 80.36.170 and 80.36.180 in whole or in part for a service classified as  
22 competitive if it finds that competition will serve the same purpose  
23 and protect the public interest.

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