
SENATE BILL 5455

State of Washington

68th Legislature

2023 Regular Session

By Senators Mullet and MacEwen

1 AN ACT Relating to classification as a competitive
2 telecommunications company for an incumbent local exchange carrier
3 currently operating under an alternative form of regulation
4 authorized by RCW 80.36.135; and amending RCW 80.36.320.

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

6 **Sec. 1.** RCW 80.36.320 and 2008 c 181 s 408 are each amended to
7 read as follows:

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

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

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

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

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

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

10 (2) Competitive telecommunications companies shall be subject to
11 minimal regulation. The commission may waive any regulatory
12 requirement under this title for competitive telecommunications
13 companies when it determines that competition will serve the same
14 purposes as public interest regulation. The commission may waive
15 different regulatory requirements for different companies if such
16 different treatment is in the public interest. A competitive
17 telecommunications company shall at a minimum:

18 (a) Keep its accounts according to regulations as determined by
19 the commission;

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

23 (c) Cooperate with commission investigations of customer
24 complaints.

25 (3) The commission may revoke any waivers it grants and may
26 reclassify any competitive telecommunications company if it finds
27 that the company is no longer subject to effective competition and it
28 determines that the revocation or reclassification would protect the
29 public interest.

30 (4) The commission may waive the requirements of RCW 80.36.170
31 and 80.36.180 in whole or in part for a competitive
32 telecommunications company if it finds that competition will serve
33 the same purpose and protect the public interest.

34 (5) During a state of emergency declared under RCW 43.06.010(12),
35 the governor may waive or suspend the operation or enforcement of
36 this section or any portion of this section or under any
37 administrative rule, and issue any orders to facilitate the operation
38 of state or local government or to promote and secure the safety and
39 protection of the civilian population.

1 (6) In addition to the process in subsection (1) of this section,
2 an incumbent local exchange carrier may elect to be classified as a
3 competitive telecommunications company by providing written notice to
4 the commission if the carrier is operating under an alternative form
5 of regulation authorized by RCW 80.36.135 and the carrier does not
6 receive universal communications services program distributions under
7 RCW 80.36.650. Once competitive classification has been elected under
8 this subsection, the company's alternative form of regulation
9 automatically terminates.

10 (7) Telecommunications companies identified in subsection (6) of
11 this section, as of the date they become competitively classified,
12 and for a period of three years after any election made pursuant to
13 subsection (6) of this section shall:

14 (a) Not further geographically deaverage the nonrecurring and
15 monthly recurring rates for stand-alone business exchange service and
16 stand-alone residential exchange service in the state; and

17 (b) Continue to tariff public safety network services to state
18 and county public safety entities necessary for routing and
19 transmission of emergency service (911) calls.

20 (8) Telecommunications companies identified in subsection (6) of
21 this section, as of the date they become competitively classified,
22 and for a period of one year, may not seek to discontinue flat-rate
23 stand-alone residential or business exchange services throughout an
24 entire wire center in the state. After one year after the election is
25 made pursuant to subsection (6) of this section, a telecommunications
26 company may petition the commission to relieve the company of this
27 restriction as to one or more wire centers. A commission proceeding
28 to consider such a petition must be:

29 (a) Completed within six months of the petition being filed; and

30 (b) Approved if the petitioner can establish:

31 (i) The presence, in the subject wire center, of at least two
32 other voice service providers, regardless of whether the service
33 providers utilize technologies other than traditional landline
34 telephone service;

35 (ii) The presence of a service provider that has undertaken a
36 state or federal obligation to provide communications service in the
37 wire center in exchange for receiving state or federal subsidy; or

38 (iii) That its retail market share of voice service is less than
39 50 percent in a wire center, calculated as petitioner's retail

1 residential voice customers in the wire center divided by the
2 residential housing units in the wire center.

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