

**PRICING NEW SERVICES -
TELECOMMUNICATIONS**

1999 GENERAL SESSION

STATE OF UTAH

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AN ACT RELATING TO PUBLIC UTILITIES; MAKING CHANGES TO REQUIRE A NEW PUBLIC TELECOMMUNICATIONS SERVICE THAT IS NOT COMPETITIVE TO BE SUBJECT TO TARIFF REQUIREMENTS; PROVIDING CRITERIA FOR PRICING FLEXIBILITY FOR ANY NEW PUBLIC TELECOMMUNICATION SERVICE; AND PERMITTING THE COMMISSION TO REQUIRE THE SERVICE TO BE OFFERED PURSUANT TO TARIFF UNDER CERTAIN CONDITIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

54-8b-2.3, as last amended by Chapter 88, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **54-8b-2.3** is amended to read:

54-8b-2.3. Pricing flexibility.

(1) (a) A telecommunications corporation that obtains a certificate to compete with the incumbent telephone corporation in a defined geographic area pursuant to Section 54-8b-2.1 may price any public telecommunications services it is authorized to offer, or any new public telecommunications service, by means of a price list or competitive contract.

(b) Before the telecommunications corporation begins providing any authorized public telecommunications service, it shall notify the commission of its intent to begin providing the service.

(2) (a) Notwithstanding other requirements of this chapter relating to pricing flexibility, an incumbent telephone corporation may offer retail end user public telecommunications services

28 by means of a price list or competitive contract as provided in Subsections (2)(b) and (c).

29 (b) (i) An incumbent telephone corporation may petition the commission for pricing
30 flexibility in any proceeding in which another telecommunications corporation has petitioned the
31 commission for a certificate to provide specified public telecommunications services in a defined
32 geographic area that is within the incumbent telephone corporation's service territory.

33 (ii) In the proceeding, the commission shall, by order, grant pricing flexibility to the
34 incumbent telephone corporation for the same or substitutable public telecommunications services
35 in the same defined geographic area.

36 (iii) Pricing flexibility for any public telecommunications service shall become effective
37 when the following conditions are met:

38 (A) the commission has issued a certificate to the competing telecommunications
39 corporation;

40 (B) the competing telecommunications corporation has begun providing the authorized
41 public telecommunications service in the defined geographic area;

42 (C) the incumbent telephone corporation, by written agreement, stipulation, or pursuant
43 to an order of the commission, has allowed the competing telecommunications corporation to
44 interconnect with the essential facilities and to purchase essential services of the incumbent
45 telephone corporation; and

46 (D) the incumbent telephone corporation is in compliance with the rules and orders of the
47 commission adopted or issued under Section 54-8b-2.2.

48 (c) (i) An incumbent telephone corporation may ~~[price any new public]~~ petition the
49 commission for authority to offer any new telecommunications service by means of a price list or
50 competitive contract. ~~[(3) The commission may review]~~

51 (ii) Pricing flexibility for any new [public] telecommunications service [offered by an
52 incumbent telephone corporation after the applicable tariff, price list, or competitive contract has
53 taken effect.] shall become effective when the commission has determined that:

54 (A) the new telecommunications service is offered under terms and at a price that will
55 allow competition to develop in the new telecommunications service; and

56 (B) offering the new service by means of a price list or competitive contract is in the public
57 interest.

58 ~~[(4)]~~ (3) Each price list shall:

- 59 (a) be filed with the commission;
- 60 (b) describe the public telecommunications service;
- 61 (c) set forth the basic terms and conditions upon which the public telecommunications
- 62 service is offered; and
- 63 (d) list the prices to be charged for the public telecommunications service or the basis on
- 64 which the services will be priced.

65 [(5)] (4) Prices, terms, and conditions offered under price lists or competitive contracts that
66 are different from tariff prices, terms, and conditions for the same services are not considered
67 discriminatory under Section 54-3-8 and Subsection 54-8b-3.3(2).

68 [(6)] (5) A price list filed with the commission under this section shall take effect five days
69 after it is filed with the commission.

70 [(7)] (6) The prices, terms, and conditions of a public telecommunications service offered
71 by a telecommunications corporation pursuant to a competitive contract with a retail customer
72 shall be filed with the commission.

73 [(8)] (7) The commission may, as determined necessary to protect the public interest, set
74 an upper limit on the price that may be charged by telecommunications corporations for public
75 telecommunications services that may be priced by means of a price list or competitive contract.

76 [(9)] (8) (a) The commission may revoke the authority of a telecommunications
77 corporation to offer a public telecommunications service pursuant to a price list or competitive
78 contract and may require the service to be offered pursuant to a tariff if the commission finds:

79 (i) (A) the telecommunications corporation has violated statutes or rules applicable to the
80 specific service;

81 (B) there has been a material and substantial change in the level of competition; or

82 (C) competition has not developed or is not likely to develop; and

83 (ii) [~~revocation is~~] the authority to offer the public telecommunications service pursuant
84 to a price list is not in the public interest.

85 (b) The party asserting that revocation should occur shall bear the burden of proof.

Legislative Review Note

as of 2-1-99 6:06 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel