

1 **TELECOMMUNICATIONS - PRICING NEW**
2 **SERVICES**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Chad E. Bennion**

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

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

13 AMENDS:

14 **54-8b-2.3**, as last amended by Chapter 88, Laws of Utah 1997

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

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

17 **54-8b-2.3. Pricing flexibility.**

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

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

25 (2) (a) Notwithstanding other requirements of this chapter relating to pricing flexibility,
26 an incumbent [telephone] telecommunications corporation may offer retail end user public
27 telecommunications services by means of a price list or competitive contract as provided in

28 Subsections (2)(b) and (c).

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

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

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

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

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

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

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

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

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

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

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

59 [(4)] (3) Each price list shall:

60 (a) be filed with the commission;

61 (b) describe the public telecommunications service;

62 (c) set forth the basic terms and conditions upon which the public telecommunications
63 service is offered; and

64 (d) list the prices to be charged for the public telecommunications service or the basis on
65 which the services will be priced.

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

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

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

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

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

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

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

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

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

86 (b) The party asserting that revocation or suspension should occur shall bear the burden
87 of proof.

Legislative Review Note

as of 12-14-99 4:09 PM

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

Office of Legislative Research and General Counsel