



## State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

## Public Service Commission

THAD LeVAR  
*Chair*

DAVID R. CLARK  
*Commissioner*

JORDAN A. WHITE  
*Commissioner*

August 16, 2017

Senator Daniel Hemmert, Senate Chair  
Representative Stephen G. Handy, House Chair  
Members of the Public Utilities, Energy, and Technology Interim Committee

Re: Telecommunications Network Review

Chairs and Committee Members,

Thank you for the opportunity to address this committee on Utah Code Ann. § 69-4-1, Telecommunications Network Review:

- (1) Before the creation, expansion, or upgrade of a state-owned or state-funded telecommunication network, whether voice, data, or video transmission, the agency or entity proposing any change shall submit a plan to the governor detailing the proposed changes.
- (2) If, after consultation with the agency or entity it is the opinion of the governor that implementation of the plan would result in significant impact on telephone ratepayers, the governor shall direct the Public Service Commission to prepare an advisory report detailing how implementing the plan will affect telephone ratepayers where the plan would be in effect.
- (3) (a) The Public Service Commission shall complete and provide the advisory report to the governor, the agency or entity involved, and the Public Utilities, Energy, and Technology Interim Committee within 60 days after receiving the governor's request.  
(b) The Public Service Commission may not conduct any public hearings or proceedings in the preparation of the report.

### **Background**

During the 1991 General Session, Senator Dixie L. Leavitt sponsored three related bills:

**S.B. 116** (passed), Telecommunication Network Review. This bill solely enacted § 69-4-1.

**S.B. 142** (passed), Legislative Telecommunications Study Committee. This bill created a one year legislative study committee.

**S.B. 227** (did not pass), Telecommunication Service for Public Education. This bill would have appropriated \$710,000 to expand the EDNET system (now known as the Utah Education Network) to build microwave radio connections to rural high schools in Utah.

During the floor debates on S.B. 227 there was discussion about whether the proposed project overlapped with and negatively impacted a fiber project then being planned by US West, Inc., and whether the study envisioned by S.B. 116 should be completed before the Legislature approved the project. During the floor debates on S.B. 116, there was further discussion of whether the project contemplated by S.B. 227 was parallel to the US West, Inc. project and whether the state of Utah was “sneaking into the telephone business” and adversely impacting the private sector. Both potential projects were discussed during the floor debates on S.B. 142.

### **Current Functions of Utah Code Ann. § 69-4-1**

The statute enacted by S.B. 116 has several events that must occur before the PSC would be tasked with completing an advisory report, including a directive from the Governor to the PSC. We have searched our records and have found no evidence the PSC has ever been tasked with completing an advisory report under Utah Code Ann. § 69-4-1. Additionally, in today’s environment the advisory report seems at least somewhat redundant of the budget planning done annually by the Governor’s Office and Legislature, and of the fiscal note process.

While we have never prepared an advisory report under Utah Code Ann. § 69-4-1, one aspect of that statute would be problematic for the PSC: the prohibition against conducting any public hearings or proceedings. The PSC is not an independent research body. When we determine whether a particular issue will impact ratepayers, we do it through a public process where multiple parties provide us with positions and expert testimony. We evaluate that evidence in an open forum and then make decisions (adjudications) based on it. Of course, if tasked with producing an advisory report the PSC would comply with that statutory restriction, but the usefulness of the advisory report would be limited.

I hope this information is helpful. Please contact me if you would like additional information on this or any other PSC issue. You can reach me at [tleva@utah.gov](mailto:tleva@utah.gov) or at (801) 530-6929.

Sincerely,



Thad LeVar, Chair  
Public Service Commission of Utah