

**54-8b-3 Exemptions from requirements.**

- (1) The commission, on its own initiative or in response to an application by a telecommunications corporation, a public agency, or a user of a public telecommunications service, may, after public notice and a hearing, issue an order exempting any telecommunications corporation or public telecommunications service from any requirement of this title, including any requirement or limitation relating to a telecommunication corporation's earnings, rate base, or pricing of public telecommunications services.
- (2) The commission shall specify in the order any requirements, terms, or conditions which may apply to any exemption.
- (3) An exemption may be granted for the entire service territory of a telecommunications corporation or for a specific geographic area of the service territory.
- (4) The commission may issue an order for an exemption only if it finds that:
  - (a) the telecommunications corporation or service is subject to effective competition; and
  - (b) the exemption is in the public interest.
- (5) In determining if the telecommunications corporation or service is subject to effective competition, the commission shall consider all relevant factors, which may include:
  - (a) the extent to which competing telecommunications services are available from alternative telecommunications providers;
  - (b) the ability of alternative telecommunications providers to offer competing telecommunications services that are functionally equivalent or substitutable and reasonably available at comparable prices, terms, quality, and conditions;
  - (c) the market share of the telecommunications corporation for which an exemption is proposed;
  - (d) the extent of economic or regulatory barriers to entry;
  - (e) the impact of potential competition; and
  - (f) the type and degree of exemptions to this title that are proposed.
- (6) In determining if the proposed exemption is in the public interest, the commission shall consider, in addition to other relevant factors, the impact the proposed exemption would have on captive customers of the telecommunications corporation.
- (7)
  - (a) The commission shall approve or deny any application for exemption under this section within 240 days, except that the commission may by order defer action for an additional 30-day period.
  - (b) If the commission has not acted on any application within the permitted time period, the application is considered granted.

Amended by Chapter 269, 1995 General Session