

Representative Chad E. Bennion proposes to substitute the following bill:

**TELECOMMUNICATIONS - PRICING NEW
SERVICES**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Chad E. Bennion

AN ACT RELATING TO PUBLIC UTILITIES; REQUIRING 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] an incumbent [telephone] telecommunications 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,

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 telecommunications service by means of a price list or competitive contract.

51 (3) The commission may review any new public telecommunications service offered by
52 an incumbent [telephone] telecommunications corporation after the applicable tariff, price list, or
53 competitive contract has taken effect.

54 (4) Each price list shall:

55 (a) be filed with the commission;

56 (b) describe the public telecommunications service;

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

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

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

64 (6) A price list filed with the commission under this section shall take effect five days after
65 it is filed with the commission.

66 (7) The prices, terms, and conditions of a public telecommunications service offered by
67 a telecommunications corporation pursuant to a competitive contract with a retail customer shall
68 be filed with the commission.

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

72 (9) (a) The commission may revoke or suspend the authority of a telecommunications
73 corporation to offer a public telecommunications service pursuant to a price list or competitive
74 contract and may require the service to be offered pursuant to a tariff if the commission finds:

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

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

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

79 (ii) [~~revocation is~~] offering the public telecommunications service pursuant to a price list
80 is not in the public interest.

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