

PROCEDURES FOR SMALL TELEPHONE

COMPANY RATE CASES

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Thomas V. Hatch

This act modifies the Public Utilities Code to increase the size of a telephone company that is allowed to follow an abbreviated rate increase process. This act makes technical changes.

This act provides a coordination clause.

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

AMENDS:

54-7-12 (Superseded 07/01/01), as last amended by Chapter 170, Laws of Utah 1996

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

Section 1. Section **54-7-12 (Superseded 07/01/01)** is amended to read:

54-7-12 (Superseded 07/01/01). Rate increase or decrease -- Procedure -- Effective dates -- Electrical or telephone cooperative.

(1) As used in this section:

~~(b)~~ (a) "Rate decrease" means:

(i) any direct decrease in a rate, fare, toll, rental, or other charge of a public utility; or

(ii) any modification of a classification, contract, practice, or rule that decreases a rate, fare, toll, rental, or other charge of a public utility.

~~(a)~~ (b) "Rate increase" means:

(i) any direct increase in a rate, fare, toll, rental, or other charge of a public utility; or

(ii) any modification of a classification, contract, practice, or rule that increases a rate, fare, toll, rental, or other charge of a public utility.

(2) (a) Any public utility or other party that proposes to increase or decrease rates shall file appropriate schedules with the commission setting forth the proposed rate increase or decrease.

(b) The commission shall, after reasonable notice, hold a hearing to determine whether the



28 proposed rate increase or decrease, or some other rate increase or decrease, is just and reasonable.

29 If a rate decrease is proposed by a public utility, the commission may waive a hearing unless

29a ~~it~~ [it] [it]

30 ~~the commission~~ it seeks to suspend, alter, or modify the rate decrease.

31 (c) Except as otherwise provided in Subsections (3) and (4), ~~no~~ a proposed rate increase
32 or decrease is not effective until after completion of the hearing and issuance of a final order by
33 the commission concerning the proposed increase or decrease.

34 (3) The following rules apply to the implementation of any proposed rate increase or
35 decrease filed by a utility or proposed by any other party and to the implementation of any other
36 increase or decrease in lieu of that proposed by a utility or other party that is determined to be just
37 and reasonable by the commission~~[-]~~.

38 (a) On its own initiative or in response to an application by a public utility or other party,
39 the commission, after a hearing, may allow any proposed rate increase or decrease, or a reasonable
40 part of the rate increase or decrease, to take effect, subject to the commission's right to order a
41 refund or surcharge, upon the filing of the utility's schedules or at any time during the pendency
42 of ~~its~~ the commission's hearing proceedings. The evidence presented in the hearing held pursuant
43 to this subsection need not encompass all issues that may be considered in a rate case hearing held
44 pursuant to Subsection (2)(b), but shall establish an adequate prima facie showing that the interim
45 rate increase or decrease is justified.

46 (b) (i) If the commission completes a hearing concerning a utility's revenue requirement
47 before the expiration of 240 days from the date the rate increase or decrease proposal is filed, ~~it~~
48 the commission may issue a final order within that period establishing the utility's revenue
49 requirement and fixing ~~its~~ the utility's interim allowable rates before ~~it~~ the commission
50 determines the allocation of the increase or decrease among categories of customers and classes
51 of service.

52 (ii) If the commission in ~~its~~ the commission's final order on a utility's revenue
53 requirement finds that the interim increase order under Subsection (3)(a) exceeds the increase
54 finally ordered, ~~it~~ the commission shall order the utility to refund the excess to customers. If the
55 commission in ~~its~~ the commission's final order on a utility's revenue requirement finds that the
56 interim decrease order under Subsection (3)(a) exceeds the decrease finally ordered, ~~it~~ the
57 commission shall order a surcharge to customers to recover the excess decrease.

58 (c) If the commission fails to enter ~~its~~ the commission's order granting or revising a

59 revenue increase within 240 days after the utility's schedules are filed, the rate increase proposed
60 by the utility is final and the commission may not order a refund of any amount already collected
61 by the utility under ~~h [f] its [f] [the commission's] h~~ filed rate increase.

62 (d) (i) When a public utility files a proposed rate increase based upon an increased cost to
63 the utility for fuel or energy purchased or obtained from independent contractors, other
64 independent suppliers, or any supplier whose prices are regulated by a governmental agency, the
65 commission shall issue a tentative order with respect to the proposed increase within ten days after
66 the proposal is filed, unless it issues a final order with respect to the rate increase within 20 days
67 after the proposal is filed.

68 (ii) The commission shall hold a public hearing within 30 days after it issues the tentative
69 order to determine if the proposed rate increase is just and reasonable.

70 (4) (a) Notwithstanding any other provisions of this title, any schedule, classification,
71 practice, or rule filed by a public utility with the commission that does not result in any rate
72 increase shall take effect 30 days after the date of filing or within any lesser time the commission
73 may grant, subject to its authority after a hearing to suspend, alter, or modify that schedule,
74 classification, practice, or rule.

75 (b) When the commission suspends a schedule, classification, practice, or rule, ~~[it] the~~
76 commission shall hold a hearing on the schedule, classification, practice, or rule before issuing its
77 final order.

78 (c) For purposes of this Subsection (4), any schedule, classification, practice, or rule that
79 introduces a service or product not previously offered may not result in a rate increase.

80 (5) (a) Notwithstanding any other provision of this title, whenever a public utility files with
81 the commission any schedule, classification, practice, or rule that does not result in an increase in
82 any rate, fare, toll, rental, or charge, the schedule, classification, practice, or rule shall take effect
83 30 days after the date of filing or at any earlier time the commission may grant, subject to the
84 authority of the commission, after a hearing, to suspend, alter, or modify the schedule,
85 classification, practice, or rule.

86 (b) (i) Notwithstanding any other provision of this title, whenever a public utility files with
87 the commission a request for an increase in rates, fares, tolls, rentals, or charges based solely upon
88 cost increases to the public utility of fuel supplied by an independent contractor or independent
89 source of supply, the requested increase shall take effect ten days after the filing of the request with

90 the commission or at any earlier time after the filing of the request as the commission may by order
91 permit.

92 (ii) The commission shall order the increase to take effect only after a showing has been
93 made by the public utility to the commission that the increase is justified.

94 (iii) The commission may, after a hearing, suspend, alter, or modify the increase.

95 (6) This section does not apply to any rate changes of an electrical or telephone
96 cooperative that meets all of the ~~[following]~~ requirements~~[-]~~ of this Subsection (6).

97 (a) (i) The cooperative is organized for the purpose of either distributing electricity or
98 providing telecommunication services to its members and the public at cost.

99 (ii) "At cost" includes interest costs and a reasonable rate of return as determined by the
100 cooperative's board of directors.

101 (b) The cooperative's board of directors and any appropriate agency of the federal
102 government have approved the rate increase or other rate change and all necessary tariff revisions
103 reflecting the increased rate or rate change.

104 (c) Before implementing any rate increases, the cooperative has held a public meeting for
105 all its customers and members. The cooperative shall mail a notice of the meeting to all of the
106 cooperative's customers and members not less than ten days prior to the date that the meeting is
107 held.

108 (d) The cooperative has filed its tariff revisions reflecting the rate increase or other rate
109 change with the commission, who shall make the tariffs available for public inspection.

110 (7) ~~[Procedures]~~ Notwithstanding Subsections (2) and (3), the procedures for [the
111 implementation of] implementing a proposed rate increase by a telephone corporation having less
112 than ~~[5,000]~~ 30,000 subscriber access lines in the state are ~~[as follows:]~~ provided in this Subsection
113 (7).

114 (a) (i) The proposed rate increase ~~[may become]~~ by a telephone corporation subject to this
115 Subsection (7) **h [is] MAY BECOME h** effective ~~[upon the filing of]~~ on the day the telephone
115a corporation files with the
116 commission the proposed tariff revisions and necessary information to support a determination by
117 the commission that the proposed rate increase is just and reasonable.

118 (ii) The telephone corporation shall ~~[provide 30 days' notice to]~~ notify the commission and
119 all potentially affected access line subscribers of the proposed rate increase 30 days before filing
120 the proposed rate increase or change.

121 (b) (i) The commission may investigate whether the proposed rate increase is just and
122 reasonable.

123 (ii) If the commission determines, after notice and hearing, that the rate increase is unjust
124 or unreasonable in whole or in part, the commission may establish the rates, charges, or
125 classifications that ~~it~~ the commission finds to be just and reasonable.

126 (c) The commission shall investigate and hold a hearing to determine whether any
127 proposed rate increase is just and reasonable if 10% or more of the telephone corporation's
128 potentially affected access line subscribers file a request for agency action requesting an
129 investigation and hearing.

130 Section 2. **Coordination clause.**

131 If this bill and H.B. 184, Public Utilities Amendments - Repeal, both pass, it is the intent
132 of the Legislature that Section 54-7-12 not be superseded and the amendments in this bill will
133 continue in effect after July 1, 2001.

Legislative Review Note
as of 1-29-01 7:15 AM

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

Office of Legislative Research and General Counsel