

**Senator Curtis S. Bramble** proposes the following substitute bill:

**TELECOMMUNICATIONS REVISIONS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Curtis S. Bramble**

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**LONG TITLE**

**General Description:**

This bill amends and repeals portions of Title 54, Public Utilities, relevant to pricing and competition by telecommunications corporations.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ exempts certain activities of telecommunications corporations from compliance with rate schedules;
- ▶ exempts certain activities of telecommunications corporations from prohibitions on rate or service preferences;
- ▶ expands pricing flexibility for certain telecommunications corporations and services;
- ▶ addresses the methods of filing price lists;
- ▶ eliminates the requirement that a telecommunications corporation petition the Public Service Commission for pricing flexibility;
- ▶ requires an incumbent telephone corporation to provide basic residential service throughout its service area;
- ▶ requires an incumbent telephone corporation to maintain basic residential service rates at July 1, 2004 levels, except under certain circumstances;



- 26           ▶ allows the Public Service Commission to review basic residential service by an
- 27 incumbent and others;
- 28           ▶ allows the Public Service Commission to exempt an incumbent telephone
- 29 corporation from basic residential service provisions if comparable services exist at
- 30 comparable prices;
- 31           ▶ provides for certain disclosures of competitive contracts;
- 32           ▶ allows small incumbent telephone corporations to petition the Public Service
- 33 Commission for regulation by price, rather than traditional rate of return regulation;
- 34           ▶ allows the Public Service Commission to exempt small incumbent telephone
- 35 corporations from certain pricing provisions under certain circumstances;
- 36           ▶ allows the Public Service Commission to adjust rates for telephone corporations not
- 37 subject to price regulation; and
- 38           ▶ makes technical changes.

39 **Monies Appropriated in this Bill:**

40           None

41 **Other Special Clauses:**

42           None

43 **Utah Code Sections Affected:**

44 AMENDS:

- 45           **54-3-7**, Utah Code Annotated 1953
- 46           **54-3-8**, as last amended by Chapter 265, Laws of Utah 1998
- 47           **54-8b-2**, as last amended by Chapter 320, Laws of Utah 2002
- 48           **54-8b-2.3**, as last amended by Chapter 291, Laws of Utah 2000
- 49           **54-8b-3.3**, as last amended by Chapter 291, Laws of Utah 2000
- 50           **54-8b-4.5**, as enacted by Chapter 88, Laws of Utah 1997

51 REPEALS:

- 52           **54-8b-2.4**, as last amended by Chapter 291, Laws of Utah 2000
- 53           **54-8b-2.5**, as last amended by Chapter 279, Laws of Utah 2004



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

56           Section 1. Section **54-3-7** is amended to read:

57           **54-3-7. Charges not to vary from schedules -- Refunds and rebates forbidden --**  
58 **Exceptions.**

59           Except as provided in this chapter [~~otherwise provided~~] or Chapter 8b, Public  
60 Telecommunications Law, no public utility shall charge, demand, collect or receive a greater or  
61 less or different compensation for any product or commodity furnished or to be furnished, or  
62 for any service rendered or to be rendered, than the rates, tolls, rentals and charges applicable to  
63 such products or commodity or service as specified in its schedules on file and in effect at the  
64 time; nor shall any such public utility refund or remit, directly or indirectly, in any manner or  
65 by any device, any portion of the rates, tolls, rentals and charges so specified; nor extend to any  
66 person any form of contract or agreement, or any rule or regulation, or any facility or privilege  
67 except such as are regularly and uniformly extended to all corporations and persons; provided,  
68 that the commission may, by rule or order, establish such exceptions from the operation of this  
69 prohibition as it may consider just and reasonable as to any public utility.

70           Section 2. Section **54-3-8** is amended to read:

71           **54-3-8. Preferences forbidden -- Power of commission to determine facts.**

72           (1) [~~No~~] Except as provided in Chapter 8b, Public Telecommunications Law, a public  
73 utility [~~shall,~~] may not:

74           (a) as to rates, charges, service, facilities or in any other respect, make or grant any  
75 preference or advantage to any person, or subject any person to any prejudice or disadvantage[  
76 No public utility shall]; and

77           (b) establish or maintain any unreasonable difference as to rates, charges, service or  
78 facilities, or in any other respect, either as between localities or as between classes of service.

79           (2) The commission shall have power to determine any question of fact arising under  
80 this section.

81           Section 3. Section **54-8b-2** is amended to read:

82           **54-8b-2. Definitions.**

83           As used in this chapter:

84           (1) (a) "Aggregator" means any person or entity that:

85           (i) is not a telecommunications corporation;

86           (ii) in the ordinary course of its business makes operator assisted services available to  
87 the public or to customers and transient users of its business or property through an operator

88 service provider; and

89 (iii) receives from an operator service provider by contract, tariff, or otherwise,  
90 commissions or compensation for calls delivered from the aggregator's location to the operator  
91 service provider.

92 (b) "Aggregator" may include any hotel, motel, hospital, educational institution,  
93 government agency, or coin or coinless telephone service provider so long as that entity  
94 qualifies under Subsection (1)(a).

95 (2) "Basic residential service" means a local exchange service for a residential  
96 customer consisting of:

97 (a) a single line with access to the public switched network;

98 (b) touch-tone or the functional equivalent;

99 (c) local flat-rate unlimited usage, exclusive of extended area service;

100 (d) single-party service;

101 (e) a free phone number listing in directories received for free;

102 (f) access to operator services;

103 (g) access to directory assistance;

104 (h) access to lifeline and telephone relay assistance;

105 (i) access to 911 and E911 emergency services;

106 (j) access to long-distance carriers;

107 (k) access to toll limitations services; § [and] §

108 (l) other services as may be determined by the commission § [:] ; AND

108a (m) NO FEATURE. §

109 ~~[(2)]~~ (3) "Certificate" means a certificate of public convenience and necessity issued by  
110 the commission authorizing a telecommunications corporation to provide specified public  
111 telecommunications services within a defined geographic service territory in the state.

112 ~~[(3)]~~ (4) "Division" means the Division of Public Utilities established in Section  
113 54-4a-1.

114 ~~[(4)]~~ (5) "Essential facility or service" means any portion, component, or function of  
115 the network or service offered by a provider of local exchange services:

116 (a) that is necessary for a competitor to provide a public telecommunications service;

117 (b) that cannot be reasonably duplicated; and

118 (c) for which there is no adequate economic alternative to the competitor in terms of

119 quality, quantity, and price.

120 (6) (a) "Feature" means a custom calling service available from the central office  
121 switch, including call waiting, call forwarding, three-way calling, and similar services.

122 (b) "Feature" does not include long distance calling.

123 ~~[(5)]~~ (7) "Federal Telecommunications Act" means the Federal Telecommunications  
124 Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

125 ~~[(6)]~~ (8) "Incumbent telephone corporation" means a telephone corporation, its  
126 successors or assigns, which, as of May 1, 1995, held a certificate to provide local exchange  
127 services in a defined geographic service territory in the state.

128 ~~[(7)]~~ (9) "Intrastate telecommunications service" means any public telecommunications  
129 service in which the information transmitted originates and terminates within the boundaries of  
130 this state.

131 ~~[(8)]~~ (10) "Local exchange service" means the provision of telephone lines to  
132 customers with the associated transmission of two-way interactive, switched voice  
133 communication within the geographic area encompassing one or more local communities as  
134 described in maps, tariffs, or rate schedules filed with and approved by the commission.

135 ~~[(9)]~~ (11) "Mobile telecommunications service" means a mobile telecommunications  
136 service:

137 (a) that is defined as a mobile telecommunications service in the Mobile  
138 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124; and

139 (b) in which the information transmitted originates and terminates in one state.

140 ~~[(10)]~~ (12) (a) "New public telecommunications service" means a service offered by a  
141 telecommunications corporation which that corporation has never offered before.

142 (b) "New public telecommunications service" does not include:

143 (i) a tariff, price list, or competitive contract that involves a new method of pricing any  
144 existing public telecommunications service;

145 (ii) a package of public telecommunications services that includes an existing public  
146 telecommunications service; or

147 (iii) a public telecommunications service that is a direct replacement for:

148 (A) a fully regulated service;

149 (B) an existing service offered pursuant to a tariff, price list, or competitive contract; or

150 (C) an essential facility or an essential service.

151 ~~[(11)]~~ (13) "Operator assisted services" means services which assist callers in the  
152 placement or charging of a telephone call, either through live intervention or automated  
153 intervention.

154 ~~[(12)]~~ (14) "Operator service provider" means any person or entity that provides, for a  
155 fee to a caller, operator assisted services.

156 ~~[(13)]~~ (15) "Price-regulated service" means any public telecommunications service  
157 governed by Section 54-8b-2.3.

158 ~~[(14)]~~ (16) "Public telecommunications service" means the two-way transmission of  
159 signs, signals, writing, images, sounds, messages, data, or other information of any nature by  
160 wire, radio, lightwaves, or other electromagnetic means offered to the public generally.

161 ~~[(15) "Same or substitutable" with reference to a public telecommunications service  
162 means that the service is comparable to another service in terms of function, price, and quality  
163 to an end user customer.]~~

164 ~~[(16)]~~ (17) "Substantial compliance" with reference to a rule or order of the  
165 commission means satisfaction of all material obligations in a manner consistent with the rule  
166 or order.

167 ~~[(17)]~~ (18) "Telecommunications corporation" means any corporation or person, and  
168 their lessees, trustees, receivers, or trustees appointed by any court, owning, controlling,  
169 operating, managing, or reselling a public telecommunications service.

170 ~~[(18)]~~ (19) (a) "Total service long-run incremental cost" means the forward-looking  
171 incremental cost to a telecommunications corporation caused by providing the entire quantity  
172 of a public telecommunications service, network function, or group of public  
173 telecommunications services or network functions, by using forward-looking technology,  
174 reasonably available, without assuming relocation of existing plant and equipment.

175 (b) The "long-run" means a period of time long enough so that cost estimates are based  
176 on the assumption that all inputs are variable.

177 Section 4. Section **54-8b-2.3** is amended to read:

178 **54-8b-2.3. Pricing flexibility.**

179 (1) (a) A telecommunications corporation that obtains a certificate to compete with the  
180 incumbent telephone corporation in a defined geographic area pursuant to Section 54-8b-2.1

181 may price any public telecommunications services it is authorized to offer, or any new public  
182 telecommunications service, by means of a price list or competitive contract.

183 (b) Before the telecommunications corporation begins providing any authorized public  
184 telecommunications service, it shall notify the commission of:

185 (i) its intent to begin providing the service; and

186 (ii) the defined geographic area in which it will provide the service.

187 (2) (a) Notwithstanding other requirements of this chapter relating to pricing flexibility,  
188 beginning on May 2, 2005, an incumbent telephone corporation may offer retail end user public  
189 telecommunications services by means of a price list or competitive contract in the same  
190 manner as a competing telecommunications corporation as provided in [~~Subsections (2)(b) and~~  
191 ~~(c).~~] Subsection (1):

192 (i) if the incumbent telephone corporation:

193 (A) is in substantial compliance with rules and orders of the commission issued under  
194 Section 54-8b-2.2; and

195 (B) has more than 30,000 access lines; and

196 (ii) except as provided in Subsection (2)(b).

197 [~~(b) (i) An incumbent telephone corporation may petition the commission for pricing~~  
198 ~~flexibility in:~~]

199 [~~(A) any proceeding in which another telecommunications corporation has petitioned~~  
200 ~~the commission for a certificate to provide specified public telecommunications services in a~~  
201 ~~defined geographic area that is within the incumbent telephone corporation's service territory;~~  
202 ~~or]~~

203 [~~(B) an independent proceeding after the other telecommunications corporation has~~  
204 ~~been certificated to provide specified public telecommunications services in a defined~~  
205 ~~geographic area that is within the incumbent telephone corporation's service territory.]~~

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

209 [(iii) ~~Pricing flexibility for any public telecommunications service shall become~~  
210 ~~effective in accordance with the procedure in Subsection (2)(b)(iv) when the following~~  
211 ~~conditions are met:]~~

212 ~~[(A) the commission has issued a certificate to the competing telecommunications~~  
213 ~~corporation;]~~

214 ~~[(B) the competing telecommunications corporation has begun providing the~~  
215 ~~authorized public telecommunications service in the defined geographic area;]~~

216 ~~[(C) the incumbent telephone corporation, by written agreement, stipulation, or~~  
217 ~~pursuant to an order of the commission, has allowed the competing telecommunications~~  
218 ~~corporation to interconnect with the essential facilities and to purchase essential services of the~~  
219 ~~incumbent telephone corporation; and]~~

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

222 ~~[(iv) (A) The commission shall enter its final order either granting or denying a petition~~  
223 ~~for pricing flexibility under Subsection (2)(b) within 90 days of the date the incumbent~~  
224 ~~telephone corporation files its petition seeking pricing flexibility.]~~

225 ~~[(B) If the commission has not entered an order within 90 days of the date the petition~~  
226 ~~is filed, the petition shall be considered granted.]~~

227 ~~[(C) Pricing flexibility shall be effective 45 days following the granting of a petition~~  
228 ~~for pricing flexibility under Subsection (2)(b) unless the commission orders an earlier effective~~  
229 ~~date.]~~

230 ~~[(c) An incumbent telephone corporation may price any new public~~  
231 ~~telecommunications service by means of a price list or competitive contract.]~~

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

235 (b) (i) The incumbent telephone corporation's pricing flexibility shall be the same as a  
236 competing telecommunications corporation's pricing flexibility for all public  
237 telecommunications services except basic residential service.

238 (ii) The incumbent telephone corporation shall offer basic residential service  
239 throughout the area in which the incumbent telephone corporation is authorized by certificate  
240 to provide basic residential service.

241 (iii) Except as provided in Subsections (2)(b)(iv) and (v), and (2)(c), the incumbent  
242 telephone corporation may not increase the price of basic residential service above the price as



243 of July 1, 2004.

244 (iv) The incumbent telephone corporation may make revenue neutral adjustments to  
245 the price of basic residential service to reduce or eliminate differences in the price of basic  
246 residential service in different portions of its service area.

247 (v) The incumbent telephone corporation may increase the price of basic residential  
248 service based:

249 (A) on changes in local calling areas approved by the commission;

250 (B) changes in access charges approved by the commission; or

251 (C) other changes affecting basic residential service approved by the commission.

252 (c) (i) Upon request by the incumbent telephone corporation, but in any event no later  
253 than May 2, 2007, the commission shall review whether any person is offering a service that  
254 includes the essential components of basic residential service at a price comparable to the  
255 incumbent telephone corporation's price for basic residential service in the area served by a  
256 central office of the incumbent telephone corporation.

257 (ii) If, under Subsection (2)(c)(i), the commission determines that any person is  
258 offering a service that includes the essential components of basic residential service at a price  
259 comparable to the incumbent telephone corporation's price for basic residential service in the  
260 area served by a central office of the incumbent telephone corporation, Subsection (2)(b) does  
261 not apply in the area served by that central office.

262 ~~[(4)]~~ (3) Each price list shall:

263 (a) be filed with the commission~~[-];~~

264 (i) electronically; or

265 (ii) by paper copies only if permitted by commission rule;

266 (b) describe the public telecommunications service;

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

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

271 ~~[(5)]~~ (4) Prices, terms, and conditions offered under price lists or competitive contracts  
272 that are different from tariff prices, terms, and conditions for the same services are not  
273 considered discriminatory under Section 54-3-8 and Subsection 54-8b-3.3(2).

274           ~~[(6)]~~ (5) A price list filed with the commission under this section shall take effect five  
275 days after it is filed with the commission.

276           ~~[(7)]~~ (6) (a) ~~[The]~~ Except as provided in Subsection (6)(b), the prices, terms, and  
277 conditions of a public telecommunications service offered by a telecommunications  
278 corporation pursuant to a competitive contract with a retail customer ~~[shall]~~ need not be filed  
279 with the commission.

280           (b) Notwithstanding Subsection (6)(a), a copy of a competitive contract shall be  
281 provided to the commission or division of public utilities if the commission or division of  
282 public utilities, pursuant to general investigatory powers, requests a copy of the competitive  
283 contract.

284           ~~[(8)]~~ (7) (a) ~~[The]~~ Subject to Subsection (7)(b), the commission may, as determined  
285 necessary to protect the public interest, set an upper limit on the price that may be charged by  
286 telecommunications corporations for public telecommunications services that may be priced by  
287 means of a price list or competitive contract in a defined geographic area.

288           (b) The upper limit on price imposed under Subsection (7)(a) shall be applied to all  
289 telecommunications corporations holding a certificate to provide the public  
290 telecommunications services in the defined geographic area in a competitively neutral manner.

291           ~~[(9)]~~ (8) (a) The commission may revoke the authority of a telecommunications  
292 corporation to offer a public telecommunications service pursuant to a price list or competitive  
293 contract or the commission may adopt conditions or restrictions on the telecommunications  
294 corporation's pricing flexibility if the commission finds:

295           (i) (A) the telecommunications corporation has materially violated statutes or rules  
296 applicable to the specific service;

297           (B) there has been or there is an imminent threat of a material and substantial ~~[change]~~  
298 diminution in the level of competition; or

299           (C) competition has not developed; and

300           (ii) revocation or conditions or restrictions on the telecommunications corporation's  
301 pricing flexibility is in the public interest.

302           (b) The party asserting that revocation or conditions or restrictions on the  
303 telecommunications corporation's pricing flexibility should ~~[occur]~~ be imposed shall bear the  
304 burden of proof.

305 ~~[(10)]~~ (9) The commission shall establish rules or procedures to protect confidential,  
 306 proprietary, and competitively sensitive information provided to the commission or the division  
 307 pursuant to this section.

308 (10) (a) An incumbent telephone corporation serving fewer than 30,000 access lines in  
 309 the state may petition the commission to be regulated under price regulation rather than  
 310 traditional rate of return regulation.

311 (b) In implementing price regulation for an incumbent telephone corporation serving  
 312 fewer than 30,000 access lines, the commission may modify the requirements of any provision  
 313 of this section if necessary to the individual circumstances of the incumbent telephone  
 314 corporation.

315 Section 5. Section **54-8b-3.3** is amended to read:

316 **54-8b-3.3. Services that must be offered on a nondiscriminatory basis -- Public**  
 317 **telecommunications to be cost-based -- Packaged services -- Quality of service standards.**

318 (1) (a) As used in this section, "cost-based" means that the prices for the  
 319 telecommunications services shall be established after taking into consideration the total  
 320 service long-run incremental cost of providing the service.

321 (b) The term "cost-based" does not prevent the establishment of prices:

322 (i) that promote the universal availability of service in the state[-]; or

323 (ii) that are offered by a telecommunications corporation for a public  
 324 telecommunications service in a promotional offer, or market trial, or to meet competition.

325 (2) ~~[Notwithstanding]~~ Except with respect to a price regulated service offered in a  
 326 promotional offer, or market trial, or to meet competition and notwithstanding any other  
 327 provision of this chapter:

328 (a) ~~[no]~~ a telecommunications corporation with more than 30,000 access lines in the  
 329 state ~~[and which]~~ that provides a [tariffed] public telecommunications service [or a  
 330 price-regulated service shall] may not:

331 (i) as to the pricing and provisioning of the ~~[tariffed]~~ public telecommunications  
 332 service ~~[or price-regulated service]~~, make or grant any undue or unreasonable preference or  
 333 advantage to any person, corporation, or locality; or

334 (ii) in providing services ~~[which]~~ that utilize the local exchange network:

335 (A) make or give any undue or unreasonable preference or advantage to any person,

336 corporation, or locality; or

337 (B) subject any person, corporation, or locality to any undue or unreasonable prejudice  
338 or disadvantage;

339 (b) [~~tariffed~~] public telecommunications services [~~and price-regulated services~~]  
340 provided by a telecommunications corporation with more than 30,000 access lines in the state  
341 shall be nondiscriminatory, cost-based, and subject to resale as determined by the commission;  
342 and

343 (c) [~~tariffed~~] public telecommunications services [~~and price-regulated services~~] may be  
344 packaged with other services, so long as they are also offered on a separate, unbundled basis.

345 [~~(3) An incumbent telephone corporation may not price any public telecommunications  
346 service at a level which is less than the sum of:]~~

347 [~~(a) the total service long-run incremental cost of nonessential facilities used to provide  
348 the public telecommunications service in a particular geographic area; and]~~

349 [~~(b) the price of essential facilities used to provide the public telecommunications  
350 service in a particular defined geographic area.]~~

351 [~~(4) Subsection (3) does not require that the price of residential telephone service  
352 which is priced below its total service long-run incremental cost on May 1, 1995, be increased.  
353 However, the price of any service that is below its total service long-run incremental cost may  
354 be increased annually as provided in Section 54-8b-2.4.]~~

355 [~~(5) The commission shall examine the total service long-run incremental cost studies  
356 of an incumbent telephone corporation's public telecommunications services as needed to  
357 insure compliance with this section.]~~

358 [~~(6)~~] (3) (a) In order to promote continued investment in the public  
359 telecommunications network [~~by incumbent telephone corporations~~] and to improve the quality  
360 of service for end users [~~in areas where competition has not developed, by September 30,  
361 2000~~], the commission [~~shall~~] may adopt rules governing service quality standards to end users  
362 for all [~~tariffed~~] public telecommunications services.

363 (b) The commission shall have the authority to enforce the rules adopted under this  
364 Subsection [~~(6)~~] (3) by granting billing credits to the affected end user where the  
365 noncompliance is for reasons within the [~~incumbent telephone~~] telecommunications  
366 corporation's control.

367 ~~[(c) The commission shall report annually to the Legislature concerning investment by~~  
 368 ~~incumbent telephone corporations in the public telecommunications network in their service~~  
 369 ~~areas and the quality of service to end users of tariffed public telecommunications services.]~~

370 (c) Rules adopted under this Subsection (3) on or after January 1, 2005, shall impose  
 371 no greater requirements or obligations on any telecommunications corporation:

372 (i) than were applicable to that telecommunications corporation under rules adopted  
 373 before January 1, 2005; or

374 (ii) than were imposed on telecommunications corporations that were not incumbent  
 375 telephone corporations, if the telecommunications corporation is not an incumbent telephone  
 376 corporation.

377 (d) An incumbent telephone corporation with less than 30,000 access lines in the state  
 378 is exempt from this Subsection ~~[(6)]~~ (3).

379 Section 6. Section **54-8b-4.5** is amended to read:

380 **54-8b-4.5. Commission order -- Negotiated provisions of services -- Contracts**  
 381 **under this section.**

382 (1) (a) The commission may enter an order partially or wholly exempting any public  
 383 telecommunications service from any requirement of this title relating to rates, tariffs, or fares.

384 (b) The commission may authorize the provision of all or any portion of a public  
 385 telecommunications service under stated or negotiated terms to any person that is committed to  
 386 the acquisition of comparable telecommunications services from an alternative source of  
 387 supply through construction, lease, or any other form of acquisition.

388 (2) An incumbent telephone corporation may negotiate with the person or entity within  
 389 the incumbent telephone corporation's service territory for the provision of retail end user  
 390 public telecommunications services without regard to the provisions of any tariffs on file and  
 391 approved by the commission, or any price list or competitive contract filed under Section  
 392 54-8b-2.3 with the commission but any rate, toll, fare, rental, charge, or classification of service  
 393 in such contracts shall comply with ~~[Subsection]~~ Section 54-8b-3.3~~[(3)]~~.

394 (3) (a) Within ten days after the conclusion of the negotiations and prior to the  
 395 execution of a contract under this section, the incumbent telephone corporation shall file with  
 396 the commission the proposed final agreements and other evidence of the public  
 397 telecommunications services to be provided, together with the charges and other conditions of

398 the service.

399 (b) (i) The commission may approve or deny an application, or begin adjudicative  
400 proceedings to consider approval of a contract under this section within 30 days of the filing of  
401 the application by the incumbent telephone corporation.

402 (ii) If the commission begins adjudicative proceedings, the contract is effective when  
403 the commission orders that it is effective.

404 (iii) If the commission fails to approve a contract under this section, or fails to begin  
405 adjudicative proceedings within 30 days, the final contract is effective.

406 (c) In determining whether or not to approve a contract under this section, the  
407 commission shall consider all relevant factors, including, whether or not the contract for any  
408 rate, toll, fare, rental, charge, or classification of service:

409 (i) complies with ~~[Subsection]~~ Section 54-8b-3.3~~(3)~~;

410 (ii) provides for adequate service at just and reasonable rates.

411 (d) After a contract under this section has become effective, ~~[if the incumbent~~  
412 ~~telephone corporation is not subject to maximum price regulation for tariffed public~~  
413 ~~telecommunications services under Section 54-8b-2.4,]~~ the commission shall in the next  
414 general rate case for that incumbent telephone corporation:

415 (i) review the contract for consistency with the factors stated in this Subsection (3); and

416 (ii) make any adjustment in its rate order, including retroactive adjustments, that are  
417 necessary to avoid cross subsidization from other regulated intrastate telecommunications  
418 services.

419 (e) Subsection (3) does not apply to an incumbent telephone corporation subject to  
420 price regulation for public telecommunications services under Section 54-8b-2.3.

421 (4) Any incumbent telephone corporation that provides public telecommunications  
422 services pursuant to a contract under this section may not offer the services under contract in a  
423 manner that unfairly discriminates between similarly situated customers.

424 (5) Subject to Subsection (4), terms and conditions offered in contracts under this  
425 section that are different from tariff terms and conditions for the same services are not  
426 considered discriminatory under Section 54-3-8 and Subsection 54-8b-3.3(2).

427 **Section 7. Repealer.**

428 This bill repeals:

429 Section 54-8b-2.4, Price regulation -- Price index -- Maximum prices.

430 Section 54-8b-2.5, Report to governor and Legislature.