

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2451

By: Pope and Adkins of the
House

and

Helton of the Senate

An Act relating to telecommunications; amending 17 O.S. 2001, Section 139.103, which relates to changes in regulated telecommunications service rates; modifying threshold for companies which may adjust local exchange rates in a certain manner; and declaring an emergency.

AUTHOR: Add the following Senate Coauthor: Pruitt

AMENDMENT NO. 1. Page 1, line 14 1/2, insert a new Section 1 to read

"SECTION 1. AMENDATORY 17 O.S. 2001, Section 137, is amended to read as follows:

Section 137 A. Except as otherwise hereafter provided, any proceeding under Section 136 of this title and in any other proceeding to regulate the rates of a telephone utility subject to the jurisdiction of the Corporation Commission, said Commission shall prescribe and enforce rates to provide a fair return on the fair value of the property devoted to public service in this state.

B. Telephone companies which serve less than fifteen thousand (15,000) subscribers within the state and telephone cooperatives shall not be subject to local exchange rate regulation by the Corporation Commission unless:

1. The company elects by action of its board of directors to be subject to such local exchange rate regulation by the Commission;

2. The proposed local exchange rate increase exceeds Two Dollars (\$2.00) per access line per month in any one (1) year;

3. Fifteen percent (15%) of the subscribers petition the Commission to regulate local exchange rates pursuant to subsections ~~C, D~~ D, E and ~~E~~ F of this section; or

4. The Commission declares that the company shall be subject to local exchange rate regulation by the Commission pursuant to subsection ~~F~~ G of this section.

C. Each telephone company, which serves more than five percent (5%) of the subscribers of telephone service within the state, that increases its rates in accordance with this section or section 139.103 of this title shall invest an amount equivalent to the annual revenues produced from such rate increase to upgrade its facilities used for the provision of services to subscribers served within the exchange from which revenues from such rate increase are generated.

~~C.~~ D. Each such telephone company not subject to local exchange rate regulations, at least sixty (60) days before the effective date of any proposed rate change, shall notify the Commission and each of the subscribers of such company of the proposed local exchange rate change. Notice to the Commission shall include a list of the published subscribers of such company. Notice by the company to all subscribers shall:

1. Be in a form prescribed by the Commission;
2. Be by regular mail and may be included in regular subscriber billings; and
3. Include a schedule of the proposed local exchange rates, the effective date of the said rates, and the procedure necessary for the subscribers to petition the Commission to examine and determine the reasonableness of the proposed rates. If the telephone directory published by the company for its subscribers sets forth the procedure for petitioning the Commission, a reference to the location in the directory shall be adequate notice of the procedure.

~~D.~~ E. The subscribers of a telephone company not subject to the Commission's local exchange rate regulation may petition the Commission to examine and determine the reasonableness of the local exchange rate change proposed by the company pursuant to subsection C of this section. The Commission shall adopt and promulgate rules and regulations governing the form of such petitions. A petition substantially in compliance with such rules and regulations shall not be deemed invalid due to minor errors in its form.

~~E.~~ F. If, by the effective date of the proposed local exchange rate change, the Commission has received petitions from fewer than fifteen percent (15%) of the subscribers requesting that the Commission examine the proposed local exchange rate change, the Commission shall immediately certify such fact to the company and the proposed local exchange rates shall become effective as published in the notice to subscribers. If, on or before the effective date of the proposed local exchange rate change, the Commission has received petitions from fifteen percent (15%) or more of the subscribers requesting that the Commission examine and determine the reasonableness of the proposed local exchange rates, the Commission shall notify the company that it will examine and determine the reasonableness of the proposed local exchange rate change. Local exchange rates and charges established by the Commission or by a telephone company pursuant to this subsection and subsection ~~E.~~ D. of this section shall be in force for not less than one (1) year.

~~F.~~ G. In addition to the procedure for petition prior to any proposed local exchange rate change pursuant to subsections ~~E.~~ D. through ~~F.~~ F. of this section, the subscribers of a telephone company not subject to the Commission's local exchange rate regulation may at any time petition the Commission to declare the company be subject to such rate regulation. If the Commission determines that at least fifty-one percent (51%) of the subscribers of a company

have properly petitioned that the company be subject to the Commission's rate regulation, the Commission shall certify such fact to the company and thereafter the company shall be subject to rate regulation by the Commission until at least fifty-one percent (51%) of the subscribers of the company properly petition that the company no longer shall be subject to the Commission's local exchange rate regulation. The Commission shall adopt and promulgate rules and regulations governing the petition procedure and the form of such petitions and a petition substantially in compliance with such rules and regulations shall not be deemed invalid due to minor errors in its form.

~~G.~~ H. Subsections A through ~~F~~ G of this section apply only to local exchange rates and charges and shall have no effect on the Oklahoma Corporation Commission's jurisdiction over, and regulation of, intrastate toll and access rates and charges.

~~H.~~ I. The Commission shall have the right to investigate and determine the reasonableness of the increase in local exchange rates and charges of each telephone company or cooperative not subject to local exchange rate regulation within one (1) year of the time local exchange rates or charges are increased. If the Commission determines such rate or charge increases are unreasonable, the Commission shall have the authority to order a rate hearing and, after such hearing, shall have the authority to rescind all or any portion of the increases found to be unreasonable.

~~I.~~ J. When any telephone utility subject to the jurisdiction of the Corporation Commission shall file with the Commission a request for review of its rates and charges, such request shall be conducted in accordance with the provisions of subsection B of Section 152 of this title.

~~J.~~ K. It is the intention of the Legislature that this entire section is an amendment to, and alteration of Sections 18 through 34, inclusive, of Article IX of the Constitution of the

State of Oklahoma, as authorized by Section 35, Article IX of said
Constitution."

and renumber subsequent sections

and amend the title to conform

Passed the Senate the 5th day of April, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2004.

Presiding Officer of the House
of Representatives