STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1335 By: Adkins of the House

and

Coffee of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to utilities; amending 17 O.S. 2001, Section 139.103, which relates to telecommunications service rates; modifying criteria for companies authorized to adjust local exchange rates; updating statutory language; establishing the Legislative Advisory Committee on Rural Telecommunications Services; stating purpose of the Committee; providing for membership; providing for chair and vice-chair positions; providing for travel reimbursement; providing for service and staffing; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2001, Section 139.103, is amended to read as follows:

Section 139.103 A. Except as provided as follows, no company shall increase or decrease any regulated telecommunications service rate without approval of the Corporation Commission, consistent with Commission rules. The Commission shall promulgate rules, to be effective no later than January 1, 1999, eliminating any regulatory disparities between the CLECs and ILECs with respect to the process of reviewing and approving tariffs.

B. Unless approved by the Legislature, no local exchange telecommunications service provider may charge a basic local exchange service rate that exceeds a basic local exchange service

rate previously approved by the Commission and in effect on March 20, 1997, unless the local exchange telecommunications service provider is regulated under traditional rate base, rate of return regulation. Provided, companies serving fewer than ~~seventy-five thousand~~ fifteen percent (15%) of the total access lines in the state, or which are subject to subsection B of Section 137 of ~~Title 17 of the Oklahoma Statutes~~ this title, may adjust local exchange rates in the manner provided for in subsection B of Section 137 of ~~Title 17 of the Oklahoma Statutes~~ this title.

C. Nothing in this act shall be construed as modifying, affecting, or nullifying the responsibilities of the Commission or any telecommunications carrier as required pursuant to the National Labor Relations Act, the Communications Act of 1934 as amended by the Telecommunications Act of 1996, or the provisions relating to refund liability for overcharges pursuant to Section 121 et seq. of ~~Title 17 of the Oklahoma Statutes~~ this title.

D. Except as otherwise provided for in this subsection, nothing in this act shall be construed as abrogating any rate case settlement agreement approved by the Corporation Commission prior to the effective date of this act. With respect to local exchange telecommunications service providers serving fifteen percent (15%) or more of the access lines in the state:

1. The company shall not request and the Commission shall not approve an increase in basic local exchange service rates before February 5, 2001;

2. The Commission shall not initiate or conduct a traditional rate base, rate of return or earnings proceeding for any such company before February 5, 2001, unless such company proposes and the Commission approves an increase in a service rate that results in an increase in overall revenues of more than five percent (5%) on an annual basis for that company, excluding rate changes made pursuant to subsection E of Section ~~6~~ 139.106 of this ~~act~~ title and

rate changes required or authorized by federal or state law, rules, orders or policies;

3. Notwithstanding any other provision of this act, no later than July 15, 1997, each such company shall submit to the Commission, and the Commission shall approve tariff changes reducing the intrastate access rates of that company by an amount necessary to generate a reduction in the annual intrastate access revenues of that company of Five Million Dollars ($5,000,000.00). The company may seek recovery from the ~~OUSF~~ Oklahoma Universal Service Fund (OUSF) of only that portion of the annual five-million-dollar revenue reduction taken as directed in this paragraph that exceeds that amount necessary to achieve parity with the interstate access rates of that company in effect on May 30, 1997. Thereafter the Commission shall continue to adjust the intrastate access rates of such company as necessary to keep such rates in parity with the interstate access rates of that company, until the intrastate access revenues of that company have been reduced by a cumulative annual amount of Eleven Million Five Hundred Thousand Dollars ($11,500,000.00), in addition to the five-million-dollar annual reduction taken as directed in this paragraph. The company may seek recovery of all or part of the eleven-million-five-hundred-thousand-dollar annual revenue reduction from the OUSF. If the company seeks recovery from the OUSF of such access revenue reductions described in this paragraph, the Commission shall, after notice and hearing, make a determination of the portion, if any, of the amounts requested that the company is eligible to receive from the OUSF;

4. No later than July 15, 1997, each such company shall submit to the Commission, and the Commission shall approve revised tariffs amending the terms and conditions provisions of the intrastate access tariffs of that company so that those tariffs are in parity with the terms and conditions provisions of the interstate access tariffs of that company. Thereafter, on an ongoing basis, such

company shall maintain the terms and conditions provisions of the intrastate access tariffs of that company so that they are in parity with the terms and conditions provisions of the interstate access tariffs of that company; and

5. All reductions in access rates provided for in paragraph 3 of this subsection shall be flowed through to customers, consistent with the Commission's Order No. 282453, as issued by the Commission in Cause No. 29217.

E. Upon application of a provider of regulated telecommunications services, the Commission may implement an alternative form of regulation other than traditional rate base, rate of return regulation. In determining whether to approve an alternative form of regulation or whether to continue regulation as established in paragraph 2 of subsection D of this section beyond February 5, 2001, the Commission shall consider the compliance of the company with the federal Telecommunications Act of 1996 in opening its network to local competition and implementing the interconnection and access provisions of such act.

F. Nothing in this section shall be construed as restricting any right of a consumer to complain to the Commission regarding quality of service or the authority of the Commission to enforce quality of service standards through the Commission's contempt powers or authority to revoke or rescind a certificate of convenience and necessity if the provider fails to provide adequate service. A certificate shall not be revoked or rescinded without notice, hearing, and a reasonable opportunity to correct any inadequacy.

G. The rules of the Corporation Commission governing quality of service shall apply equally to all local exchange telecommunications service providers.

H. In a manner consistent with the provisions of this act and rules promulgated by the Commission, the Commission shall retain jurisdiction over access services and rates.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 139.201 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established the Legislative Advisory Committee on Rural Telecommunications Services. The purpose of the Advisory Committee shall be to monitor and advise the Legislature on rural telecommunications service issues. The Advisory Committee shall consist of six (6) members as follows:

1. Three members of the Oklahoma House of Representatives appointed by the Speaker of the House of Representatives; and

2. Three members of the State Senate appointed by the President Pro Tempore of the Senate.

B. The chair and vice-chair of the Advisory Committee shall be designated from the membership of the Committee by the Speaker of the House of Representatives and President Pro Tempore of the Senate as provided in this subsection. The Speaker of the House of Representatives shall designate the initial chair who shall serve until the convening of the 1st Regular Session of the 50th Oklahoma Legislature. The President Pro Tempore of the Senate shall designate the initial vice-chair who shall serve until the convening of the 1st Regular Session of the 50th Oklahoma Legislature. Thereafter, the chair and vice-chair shall alternate every two (2) years between the House of Representatives and the Senate, beginning with the convening of the 1st Regular Session of the Legislature.

C. All members of the Advisory Committee shall serve at the pleasure of the appointing authority.

D. Members of the Advisory Committee shall be reimbursed for travel expenses incurred in the performance of their duties in

accordance with Section 456 of Title 74 of the Oklahoma Statutes from the legislative body in which they serve.

E. Staff for the Advisory Committee shall be provided by the House of Representatives and the Senate from their existing staff.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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