

ENROLLED HOUSE  
BILL NO. 2451

By: Pope and Adkins of the  
House

and

Helton and Pruitt of the  
Senate

An Act relating to telecommunications; amending 17 O.S. 2001, Section 137, which relates to regulation of telecommunications rates; requiring certain telephone companies which increase rates to invest a certain amount in facilities upgrades; 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.

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

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, E and ~~F~~ 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%) but less than fifteen percent (15%) of the subscribers of telephone service within the state, that increases its local exchange rates in accordance with this section 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.

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.

SECTION 2. 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~~ less 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 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 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.

Passed the House of Representatives the 26th day of April, 2004.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 28th day of April, 2004.

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Presiding Officer of the Senate