

SENATE BILL NO. 440—COMMITTEE ON COMMERCE AND LABOR

MARCH 15, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Provides for alternative regulation of certain providers of telecommunication services. (BDR 58-1239)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to telecommunication services; providing in skeleton form for the alternative regulation of incumbent local exchange carriers; providing in skeleton form for the reclassification of basic network services provided by such carriers; providing in skeleton form for the filing of complaints with the public utilities commission of Nevada by affected persons; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 704 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 15, inclusive, of this act.
- 3 **Sec. 2.** *As used in sections 2 to 15, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 3 to*
5 *7, inclusive, of this act, have the meanings ascribed to them in those*
6 *sections.*
- 7 **Sec. 3.** *“Affected person” means:*
- 8 1. *A public utility affected by an action of an electing carrier or an*
9 *action of the commission relating to an electing carrier;*
- 10 2. *A person whose utility service or rates are affected by an action of*
11 *an electing carrier or an action of the commission relating to an electing*
12 *carrier; or*
- 13 3. *A person who:*
- 14 (a) *Is a competitor of an electing carrier with respect to a service*
15 *performed by the electing carrier; or*
- 16 (b) *Wants to enter into competition with an electing carrier.*

1 **Sec. 4.** *“Basic network service” means the provision of any of the*
2 *following services, unless the service has been reclassified as a nonbasic*
3 *network service by the commission pursuant to section 10 of this act:*

- 4 1. *Farmer line service;*
- 5 2. *Flat rate service for residential lines;*
- 6 3. *Measured rate service for residential lines;*
- 7 4. *Flat rate service for residential trunk lines;*
- 8 5. *Flat rate service for business lines;*
- 9 6. *Measured rate service for business lines;*
- 10 7. *Flat rate service for business trunk lines;*
- 11 8. *Measured rate service for business trunk lines;*
- 12 9. *Suburban service access lines;*
- 13 10. *Toll station service access lines;*
- 14 11. *Universal lifeline service access lines;*
- 15 12. *Access to emergency 911 service; and*
- 16 13. *Single-line directory listing.*

17 **Sec. 5.** *“Electing carrier” means an incumbent local exchange*
18 *carrier that elects to be regulated pursuant to sections 2 to 15, inclusive,*
19 *of this act.*

20 **Sec. 6.** *“Incumbent local exchange carrier” has the meaning*
21 *ascribed to it in 47 U.S.C. § 251(h)(1), as that section existed on the*
22 *effective date of this section, and includes a local exchange carrier that is*
23 *treated as an incumbent local exchange carrier pursuant to that section.*

24 **Sec. 7.** *“Long-run incremental cost” includes operating expenses*
25 *and capital costs over the long run caused by adding a new service or*
26 *additional units of an existing service, or avoided by eliminating a*
27 *service.*

28 **Sec. 8.** 1. *An incumbent local exchange carrier may elect to be*
29 *regulated pursuant to sections 2 to 15, inclusive, of this act by notifying*
30 *the commission in writing of its election to be so regulated.*

31 2. *The notice of election must include a statement that the incumbent*
32 *local exchange carrier agrees not to increase any rate which the carrier*
33 *charges for basic network services.*

34 3. *After making an election pursuant to this section:*

35 (a) *The incumbent local exchange carrier is not subject to any review*
36 *of earnings, monitoring of the rate base, any requirements related to*
37 *filing cost studies concerning rate of return or any other regulation by*
38 *the commission relating to the net income or rate of return of the carrier;*

39 (b) *The commission shall not consider the rate of return, rate base or*
40 *any other earnings of the incumbent local exchange carrier in*
41 *connection with any rate change by the carrier pursuant to section 11 or*
42 *12 of this act; and*

1 (c) *The commission shall not decrease the rate of a basic network*
2 *service of the incumbent local exchange carrier unless the carrier agrees*
3 *to the decrease in the rate.*

4 **Sec. 9.** *All services provided by an electing carrier that are not basic*
5 *network services shall be deemed to be nonbasic network services.*

6 **Sec. 10.** 1. *The commission may, upon the request of an electing*
7 *carrier or upon its own initiative, reclassify a basic network service as a*
8 *nonbasic network service.*

9 2. *The commission shall establish by regulation criteria for*
10 *determining whether a service should be reclassified. The criteria must*
11 *include consideration only of:*

12 (a) *The availability of the service from other providers of*
13 *telecommunication services, except that the unavailability of another*
14 *supplier of the service in one portion of this state must not restrict the*
15 *commission from reclassifying a basic network service as a nonbasic*
16 *network service in those portions of this state where another provider of*
17 *the service operates;*

18 (b) *The proportion of the market that receives the service;*

19 (c) *The effect on the subscribers of the service if the service is*
20 *reclassified; and*

21 (d) *The nature of the service.*

22 **Sec. 11.** 1. *An electing carrier may exercise flexibility in the*
23 *pricing of its services, including, without limitation:*

24 (a) *The packaging of basic network services with:*

25 (1) *Any other service, regardless of whether the other service is a*
26 *regulated service;*

27 (2) *A service provided by an affiliate; or*

28 (3) *Any combination thereof; and*

29 (b) *The establishment of temporary promotional price reductions for*
30 *individual packages of basic network services or nonbasic network*
31 *services.*

32 2. *Before an electing carrier may exercise flexibility in the pricing of*
33 *its services pursuant to subsection 1, the carrier must give a 1-day written*
34 *informational notice to the commission.*

35 3. *The price for a package of services that contains both basic*
36 *network services and nonbasic network services must not be lower than:*

37 (a) *The sum of the long-run incremental costs of the basic network*
38 *services and the nonbasic network services contained in the package; or*

39 (b) *The sum of the prices of the basic network services, as set forth in*
40 *the tariffs of the electing carrier, and the long-run incremental costs of*
41 *the nonbasic network services contained in the package,*
42 *whichever is less.*

1 **Sec. 12.** *An electing carrier shall, with regard to any nonbasic*
2 *network service that it provides, set the price of that service at a level*
3 *above:*

- 4 1. *The long-run incremental cost of the service; or*
- 5 2. *The price of the service on the effective date of this section,*
6 *whichever is lower.*

7 **Sec. 13.** 1. *Before an electing carrier may introduce a new service,*
8 *the carrier must give a 1-day informational notice to the commission.*
9 *The new service is subject to the conditions set forth in sections 11 and*
10 *12 of this act.*

11 2. *An affected person may file a complaint with the commission*
12 *against the electing carrier to challenge the pricing of the new service.*
13 *The electing carrier may continue providing the new service without*
14 *amending the pricing of that service while the proceedings to resolve the*
15 *complaint are pending.*

16 3. *An affected person who files a complaint challenging the pricing*
17 *of a new service provided by an electing carrier has the burden of*
18 *proving that the pricing of the new service does not comply with sections*
19 *2 to 15, inclusive, of this act. If the complaint is resolved in the favor of*
20 *the affected person, the electing carrier shall amend the pricing of the*
21 *new service not later than 10 days after the date on which the*
22 *commission issues its final order.*

23 **Sec. 14.** 1. *The commission shall not adopt any regulation or issue*
24 *any rule or order that would prohibit or restrict an electing carrier from*
25 *jointly marketing or selling its products and services with the products*
26 *and services of any of its affiliates in any manner otherwise permitted by*
27 *federal law or the applicable rules of the Federal Communications*
28 *Commission. Notwithstanding any other provision of this Title, the*
29 *commission shall not attribute or impute to the electing carrier a price*
30 *discount offered by an affiliate of the electing carrier to the customers of*
31 *the affiliate.*

32 2. *The commission shall not adopt any regulation or issue any rule*
33 *or order which restricts in any manner the business or operation of a*
34 *local exchange carrier providing competitive telecommunication services*
35 *if the local exchange carrier is an affiliate of an electing carrier,*
36 *including, without limitation, any regulation, rule or order which*
37 *purports to restrict the geographical area in which such a local exchange*
38 *carrier providing competitive services may operate.*

39 **Sec. 15.** 1. *The commission shall adopt regulations specifying the*
40 *provisions of this chapter and chapter 707 of NRS that do not apply to*
41 *incumbent local exchange carriers that elect to be regulated pursuant to*
42 *sections 2 to 15, inclusive, of this act.*

1 **2. An incumbent local exchange carrier that elects to be regulated**
2 **pursuant to sections 2 to 15, inclusive, of this act, is not subject to:**
3 **(a) The provisions of subsection 3 of NRS 704.040; or**
4 **(b) The remaining provisions of this chapter or chapter 707 of NRS to**
5 **the extent specified in the regulations adopted by the commission**
6 **pursuant to subsection 1.**

7 **Sec. 16.** Section 4 of this act is hereby amended to read as follows:

8 Sec. 4. "Basic network service" means the provision of any of
9 the following services, unless the service has been reclassified as a
10 nonbasic network service by the commission pursuant to section 10
11 of this act:

- 12 1. Farmer line service;
- 13 2. Flat rate service for residential lines;
- 14 3. Measured rate service for residential lines;
- 15 4. Flat rate service for residential trunk lines;
- 16 5. ~~Flat rate service for business lines;~~
- 17 ~~6. Measured rate service for business lines;~~
- 18 ~~7. Flat rate service for business trunk lines;~~
- 19 ~~8. Measured rate service for business trunk lines;~~
- 20 ~~9.]~~ Suburban service access lines;
- 21 ~~[10.]~~ 6. Toll station service access lines;
- 22 ~~[11.]~~ 7. Universal lifeline service access lines;
- 23 ~~[12.]~~ 8. Access to emergency 911 service; and
- 24 ~~[13.]~~ 9. Single-line directory listing.

25 **Sec. 17.** 1. This section and sections 1 to 15, inclusive, of this act
26 become effective upon passage and approval.

27 2. Section 16 of this act becomes effective on January 1, 2002.