AMENDED IN ASSEMBLY APRIL 4, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL No. 2898

Introduced by Assembly Member Pescetti

February 25, 2002

An act to add and repeal Article 1.5 (commencing with Section 2880) of Part 2 of Division 1 of the Public Utilities Code, relating to telephone corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2898, as amended, Pescetti. Telephone corporations: New Regulatory Framework.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, and authorizes the commission to establish just and reasonable rates. Under that authority, the commission has adopted decisions adopting an incentive-based regulatory framework called the ~~New Regulatory Framework~~ *new regulatory framework*.

~~This bill would require, up until January 1, 2007, that the commission (1) suspend the use of a price-cap index mechanism, and (2) suspend use of an earnings-sharing mechanism for those telephone corporations regulated under the New Regulatory Framework.~~

This bill would require that, consistent with the a commission decision, price cap index productivity factors, sharing mechanisms and its components, and related elements be suspended until not earlier than January 1, 2007, for each telephone corporation regulated under the new regulatory framework. The bill would require that in regulating telephone corporations under these provisions, the commission *maintain its authority to regulate prices for all services subject to its jurisdiction and continue to have authority to move service between all pricing categories. The bill would declare that its provisions do not add to or subtract from any existing authority of the commission to regulate the quality of service provided by telephone corporations. The bill would provide that its provisions would remain in effect only until January 1, 2007.*

Because a violation of an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

~~SECTION 1. The Legislature finds and declares all of the~~

SECTION 1. Article 1.5 (commencing with Section 2880) is added to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, to read:

Article 1.5. Regulatory Framework

2880. (a) It is the intent of the Legislature to maintain the progress created by the commission's new regulatory framework for telephone corporations, which includes the establishment of an atmosphere in which telephone corporations have incentives to operate efficiently, introduce new produces, and provide better service.

(b) The Legislature finds and declares all of the following:

(1) The commission's new regulatory framework has allowed consumers to benefit from low, stable prices, as well as from the fast deployment of important new technologies.

(2) The state's telecommunications market is in a state of transition and thus, maintaining the investment incentives created

by the commission's new regulatory framework, while at the same time protecting consumers and promoting competition, is vital to the state's economy.

(3) Telephone corporations regulated under the new regulatory framework's incentive-based or price cap mechanism require certainty with respect to the provisions of the framework that will apply to them.

2880.2. (a) Consistent with commission Decision 98-10-026, any price cap index productivity factor, sharing mechanism and its component, and related elements shall be suspended until not earlier than January 1, 2007.

(b) In regulating telephone corporations under this section, the commission shall maintain its authority to regulate prices for all services subject to its jurisdiction and shall continue to have authority to move service between all pricing categories.

(c) Nothing in this section may add to or subtract from any existing authority of the commission to regulate the quality of service provided by telephone corporations.

(d) This section shall apply to each telephone corporation regulated pursuant to the new regulatory framework.

(e) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

~~following:~~

~~(a) For many decades, telephone corporations were regulated solely under cost of service, or rate of return, regulation, under which the California Public Utilities Commission set rates based on a review of each utility's costs, investments, necessary return and corresponding revenue requirement needs. The commission has replaced cost-of-service regulation for four incumbent local exchange carriers, two upon the commission's investigation and rulemaking and two upon application by the utilities, with an incentive-based regulation known as the New Regulatory Framework.~~

~~(b) The New Regulatory Framework combines financial incentives, streamlined regulation, safeguards for corporate shareholders and ratepayers, and commission monitoring through triennial reviews.~~

~~(c) The goals for the New Regulatory Framework are: (1) universal service; (2) economic efficiency; (3) technological~~

~~advance; (4) financial rate stability; (5) full utilization of the local exchange network; (6) avoidance of cross subsidies and anticompetitive behavior; and (7) low-cost, efficient regulation.~~

~~(d) Under the original New Regulatory Framework, rates were based on the prior year's rates, adjusted annually for inflation as measured by the gross national product price index, productivity, and exogenous adjustments found reasonable and necessary by the commission. Services were classified into three categories. Basic monopoly services were classified as Category 1 services. Discretionary or partially competitive services were classified as Category 2 services. Fully competitive services were classified as Category 3 services.~~

~~(e) Under the original New Regulatory Framework, prices for basic monopoly services (Category 1) and price ceilings for discretionary and partially competitive services (Category 2) were revised annually in accordance with a 'price-cap index' equal to inflation less productivity. In Decision 95-12-052, the commission set the productivity factor in the price adjustment formula equal to the inflation factor. The act of setting the productivity factor equal to the inflation factor operated as a suspension of the price adjustment formula. This had the effect of capping prices for Category 1 services, and capping the price ceiling for Category 2 services, except for the exogenous adjustments found reasonable and necessary by the commission. In Decisions 96-12-054, 96-12-074, 98-10-026, 00-03-040, and 01-06-077 the commission suspended, and continued the suspension of, the price-cap index. Decision 98-10-026 declared its expectation that the price-cap index would be eliminated in the next New Regulatory Framework triennial review. In Rulemaking 01-09-001, the commission is considering whether to reinstate the price-cap index mechanism, continue the suspension of the mechanism, or to eliminate the price-cap mechanism altogether.~~

~~(f) The original New Regulatory Framework included an earnings-sharing mechanism that included a market-based rate of return, a benchmark rate of return, a ceiling rate of return, and a floor rate of return. The telephone corporations retained 100 percent of earnings up to the benchmark rate of return and either shared or returned earnings over the benchmark and ceiling rates with ratepayers. In Decision 98-10-026, the commission suspended the earnings sharing mechanism for Pacific Bell~~

~~Telephone Company and GTE California Incorporated, now known as Verizon California Incorporated. Decision 98-10-026 declared its expectation that the sharing mechanism would be eliminated in the next New Regulatory Framework triennial review. In Decisions 01-06-077 and 01-12-024, the commission ordered the retention of Roseville Telephone Company's sharing mechanism. In Decision 00-03-040, the commission approved a settlement agreement between Citizens Telecommunications Company of California, Inc. and the commission's Office of Ratepayer Advocates, that ordered the retention of a sharing mechanism. In Rulemaking 01-09-001, the commission is considering whether to eliminate the sharing mechanism, continue the suspension of the sharing mechanism, or to reinstate the sharing mechanism.~~

~~(g) The telecommunications industry is in a state of transition, with a convergence of technology and increasing competition. The commission's New Regulatory Framework has allowed consumers to benefit from low, stable prices, as well as from the fast deployment of important new technologies, including modernized networks, deployment of fiber optics, advanced switches, and an abundance of convenience features. The New Regulatory Framework has resulted in billions of dollars in investment and the creation of thousands of new jobs for the California economy. Maintaining the investment incentives created by the commission's New Regulatory Framework, while at the same time protecting consumers and promoting competition, is vital to the state's economy.~~

~~(h) The New Regulatory Framework's incentive-based regulation has proven to be the most effective regulatory means to increase efficiency and reduce cost in the telecommunications market.~~

~~(i) Telephone corporations regulated under the New Regulatory Framework's incentive-based or price-cap mechanism require predictability with respect to the provisions of the New Regulatory Framework that will apply to them.~~

~~(j) It is the intent of the Legislature to maintain the progress created by the commission's New Regulatory Framework, which includes the creation of an atmosphere in which telephone corporations have incentives to operate efficiently, introduce new products, and provide better service.~~

~~SEC. 2. Article 1.5 (commencing with Section 2880) is added to Part 2 of Division 1 of the Public Utilities Code, to read:~~

~~Article 1.5. New Regulatory Framework~~

~~2880. (a) Any price-cap index mechanism whereby inflation is adjusted by a productivity factor, and its related components and elements, previously suspended by the commission in regulating a telephone corporation under the New Regulatory Framework, shall be suspended from use with respect to that telephone corporation, until January 1, 2007. Nothing in this section shall impair the commission's power to eliminate the price-cap index mechanism from its New Regulatory Framework, for any telephone corporation. Nothing in this section shall impair the commission's power to retain or suspend the price-cap index mechanism for its New Regulatory Framework, for telephone corporations where the commission has not previously suspended their use for that corporation.~~

~~(b) Any sharing mechanism, and its related components and elements, shall be suspended from use with respect to telephone corporations regulated under the New Regulatory Framework, until January 1, 2007. Nothing in this section shall impair the commission's power to eliminate the sharing mechanism from its New Regulatory Framework, for any telephone corporation. Nothing in this section shall impair the commission's power to retain or suspend the sharing mechanism from its New Regulatory Framework, for telephone corporations not previously regulated under the New Regulatory Framework.~~

~~(c) Nothing in this section shall impair the commission's power to regulate rates and charges, price ceilings and price floors for services of telephone corporations subject to its jurisdiction, or to impair the commission's power to reclassify services to a different pricing category under the New Regulatory Framework, except as provided in subdivisions (a) and (b).~~

~~(d) Nothing in this section shall impair the commission's power to regulate the quality of service provided by telephone corporations subject to its jurisdiction.~~

~~(e) This section shall apply to each telephone corporation regulated pursuant to the New Regulatory Framework.~~

~~(f) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2007, deletes or extends that date.~~

~~SEC. 3.~~

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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