

AMENDED IN ASSEMBLY APRIL 19, 1999

AMENDED IN ASSEMBLY APRIL 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 991

Introduced by Assembly Member Papan

February 25, 1999

An act to add Section 709.7 to the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 991, as amended, Papan. Internet access: *line sharing*.

~~(1) Under~~

Under the Public Utilities Act, the Public Utilities Commission has the authority to regulate public utilities, including telephone corporations.

This bill would enact the California High Speed Internet Access Act of 1999. The bill would require the ~~commission~~ *Public Utilities Commission* to ~~examine, as specified, the technical feasibility of requiring incumbent local exchange carriers, as defined, to permit interconnection by competitive data local exchange carriers, as defined, at any technically feasible point to permit those competitive carriers to provide broadband data services over telephone lines with voice services provided by the incumbent local exchange carrier.~~ The bill would require the commission, not later than January 31, 2000, if it finds that interconnection to be technically feasible, to establish rules and rates for line sharing that will

~~allow competitive data carriers to provide high bandwidth services over telephone lines with voice services provided by the incumbent local exchange carrier, as prescribed. Because, under the act, a violation of those rules would be a crime, the bill would impose a state-mandated local program by creating a new crime—monitor and participate in a specified proceeding of the Federal Communications Commission addressing whether to require incumbent local exchange carriers, as defined, to permit interconnection by competitive data local exchange carriers, as defined, at any technically feasible point, to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers. The bill would require the Public Utilities Commission, if the Federal Communications Commission adopts an order on or before January 1, 2000, with regard to that specified federal proceeding, to examine the technical, operational, economic, and policy implications of interconnection, and, if the Public Utilities Commission determines it to be appropriate, to adopt rules to require incumbent local exchange carriers in this state to permit competitive data local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers. The bill would make related legislative findings and declarations and statements of legislative intent.~~

~~(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~~ *no*.

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

1 SECTION 1. The Legislature hereby finds and
2 declares all of the following:



1 (a) The Legislature has encouraged and continues to
2 encourage the rapid deployment of advanced
3 telecommunications services and capabilities to all
4 Californians. In effect, those persons excluded from
5 high-speed networks today will find themselves excluded
6 from the economic opportunities of tomorrow.

7 (b) High bandwidth connections between the
8 telecommunications network and end users in California
9 facilitate the availability of important new
10 telecommunications services and capabilities, including
11 telemedicine, distance learning, telecommuting,
12 high-speed Internet access, and video telephony.

13 (c) The California economy will benefit significantly
14 from expanded competition and availability of high
15 bandwidth services provided over the telephone network
16 to individual consumers, small and medium sized
17 businesses, and educational facilities.

18 (d) Expanded competition and availability for high
19 bandwidth services can add over \$64,000,000,000 to gross
20 state output and create over 600,000 new jobs in
21 California by the end of 2001.

22 (e) In order to ensure that California consumers will
23 benefit from broad availability of high-speed access,
24 affordable pricing, and the highest quality of consumer
25 service, the Legislature ~~must act to preserve freedom of~~
26 ~~choice for consumers in this rapidly emerging market.~~

27 ~~(f) The total control of telephone lines serving~~
28 ~~California homes and small businesses by existing~~
29 ~~telephone companies stands as a critical barrier to~~
30 ~~competition and the wide-scale deployment of~~
31 ~~affordable, high bandwidth data services. Telephone~~
32 ~~lines can carry, simultaneously, both voice service and~~
33 ~~high bandwidth data services from competing carriers.~~
34 ~~The Legislature recognizes that the provision of~~
35 ~~broadband data services over existing local telephone~~
36 ~~lines is a market separate from voice services provided~~
37 ~~over those same lines. However, existing telephone~~
38 ~~service providers will not allow competitive data local~~
39 ~~exchange carriers to use existing telephone lines in order~~

1 to provide high bandwidth data services at low cost to
2 California residential consumers.

3 (g) It is therefore the intent of the Legislature that the
4 Public Utilities Commission examine the technical
5 feasibility of, and establish rules for, “line sharing” that
6 will require incumbent local exchange carriers in this
7 state to permit competitive data local exchange carriers
8 to provide high bandwidth data over telephone lines with
9 voice services provided by incumbent local exchange
10 carriers. It is the further intent of the Legislature that the
11 Public Utilities Commission require incumbent local
12 exchange carriers to provide network access to
13 competitive data local exchange carriers at rates, and on
14 terms and conditions, that are nondiscriminatory and no
15 less favorable than those rates and terms and conditions
16 the incumbent local exchange carrier provides to itself or
17 an affiliate.

18 SEC. 2.—*instructs the Public Utilities Commission to*
19 *take certain actions to monitor and participate in the*
20 *pending proceeding of the Federal Communications*
21 *Commission, entitled “In the Matters of Deployment of*
22 *Wireline Services Offering Advanced*
23 *Telecommunications Capability,” CC Docket No. 98-147,*
24 *adopted March 18, 1999 (the Advanced Services Docket),*
25 *in which the Federal Communications Commission is*
26 *engaging in a rulemaking proceeding to consider issues*
27 *related to loop access, pricing, and cost allocation in the*
28 *provision of broadband data services over telephone lines*
29 *provided by an incumbent local exchange carrier.*

30 (f) *The Federal Communications Commission has*
31 *established the following initial deadlines for the*
32 *Advanced Services Docket: June 15, 1999, for comments*
33 *and July 15, 1999, for reply comments. Based on those*
34 *dates, the Legislature believes that the Federal*
35 *Communications Commission will complete its*
36 *rulemaking proceeding before January 1, 2000, and that*
37 *the Federal Communications Commission will benefit*
38 *significantly from the development of the record in the*
39 *Advanced Services Docket.*

1 SEC. 2. *It is the intent of the Legislature that the*
2 *Public Utilities Commission do one of the following:*

3 (a) *If the Federal Communications Commission*
4 *adopts an order on or before January 1, 2000, with regard*
5 *to its proceeding entitled "In the Matters of Deployment*
6 *of Wireline Services Offering Advanced*
7 *Telecommunications Capability," CC Docket No. 98-147,*
8 *adopted March 18, 1999, that the Public Utilities*
9 *Commission comply with, and implement, that order,*
10 *consistent with state and federal law, within 90 days from*
11 *the date that such an order becomes final.*

12 (b) *If the Federal Communications Commission does*
13 *not adopt an order on or before January 1, 2000, with*
14 *regard to its proceeding entitled "In the Matters of*
15 *Deployment of Wireline Services Offering Advanced*
16 *Telecommunications Capability," CC Docket No. 98-147,*
17 *adopted March 18, 1999, that the Public Utilities*
18 *Commission expeditiously examine the technical,*
19 *operational, economic, and policy implications of line*
20 *sharing and, if the Public Utilities Commission*
21 *determines it to be appropriate, adopt rules to require*
22 *incumbent local exchange carriers in this state to permit*
23 *competitive data local exchange carriers to provide high*
24 *bandwidth data services over telephone lines with voice*
25 *services provided by incumbent local exchange carriers.*

26 SEC. 3. *Section 709.7 is added to the Public Utilities*
27 *Code, to read:*

28 709.7. (a) *This section shall be known as and may be*
29 *cited as the California High Speed Internet Access Act of*
30 *1999.*

31 ~~(b) The commission, before establishing any rules and~~
32 ~~rates for line sharing, shall examine the technical~~
33 ~~feasibility of requiring incumbent local exchange carriers~~
34 ~~to permit interconnection by competitive data local~~
35 ~~exchange carriers at any technically feasible point to~~
36 ~~permit those competitive data local exchange carriers to~~
37 ~~provide broadband data services over telephone lines~~
38 ~~with voice services provided by the incumbent local~~
39 ~~exchange carrier.~~

~~(c) If the commission finds that interconnection as described in subdivision (b) is technically feasible, the commission shall establish rules and rates for line sharing that will allow competitive data local exchange carriers to provide high bandwidth services over telephone lines with the voice services provided by the incumbent local exchange carrier.~~

~~(d) The commission shall require incumbent local exchange carriers to provide to competitive data local exchange carriers access to network infrastructure at rates, and on terms and conditions, that are nondiscriminatory and no less favorable than those rates and terms and conditions that the incumbent local exchange carrier provides to itself or an affiliate.~~

~~(e)~~

(b) The Public Utilities Commission shall monitor and participate in the proceeding of the Federal Communications Commission, entitled "In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability," CC Docket No. 98-147, adopted March 18, 1999, addressing whether to require incumbent local exchange carriers to permit interconnection by competitive data local exchange carriers at any technically feasible point to permit those competitive local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

(c) If the Federal Communications Commission adopts an order on or before January 1, 2000, with regard to the proceeding described in subdivision (b), the Public Utilities Commission shall expeditiously examine the technical, operational, economic, and policy implications of interconnection as described in subdivision (b) and, if the Public Utilities Commission determines it to be appropriate, adopt rules to require incumbent local exchange carriers in this state to permit competitive data local exchange carriers to provide high bandwidth data services over telephone lines with voice services provided by incumbent local exchange carriers.

(d) As used in this section, the following terms have the following meanings:

(1) “Incumbent local exchange carrier” has the same meaning as that term is defined in Section 251(h)(1) of Title 47 of the United States Code.

(2) “Competitive data local exchange carrier” has the same meaning as the term “local exchange carrier,” as defined in Section 153(26) of Title 47 of the United States Code.

~~(f) The commission shall, through its expedited rulemaking procedures, establish rules and rates for line sharing pursuant to subdivision (e) in the most expeditious manner possible and, in any event, not later than January 31, 2000.~~

~~SEC. 3. 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.~~