AMENDED IN SENATE JUNE 19, 2000

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AMENDED IN ASSEMBLY JANUARY 14, 2000

AMENDED IN ASSEMBLY JANUARY 5, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL No. 994

Introduced by Assembly Member Wright
(Principal coauthor: Assembly Member Strom-Martin)

February 25, 1999

An act to amend Sections 739.3 and 2890 of, and to add Section 2890.1 to, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 994, as amended, R. Wright. Telephone rates: telephone bills: rural telephone cooperatives.

(1) Existing law, until January 1, 2001, requires the Public Utilities Commission to develop, implement, and maintain a program to establish a fair and equitable local rate structure designed to reduce any disparity in rates charged by small independent telephone corporations serving rural and small metropolitan areas, and a program to provide for transfer payments to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission. *Existing law also requires*

the Legislative Analyst, not later than February 1, 2000, to conduct a review of the state's universal telephone service program and report to the Governor and the Legislature as specified.

This bill would extend the operative date of those provisions until January 1, 2005 *and would require the Legislative Analyst to conduct the review not later than February 1, 2001*.

(2) Existing law governing the contents of a telephone bill requires persons, corporations, or billing agents that transmit telephone bills to include information concerning the nature of the charges, dispute resolution, and complaint procedures. Until January 1, 2001, this includes a bill for noncommunications-related products and services included in an envelope with a telephone bill. Other existing law, operative January 1, 2001, does not contain the latter provision regarding bills for noncommunications-related goods and services.

This bill would extend the operative date of the operative provision to July 1, 2001, and would correspondingly delay the operative date of that later operative provision to July 1, 2001. The bill would require the commission to open a proceeding to adopt certain consumer protection rules. Since a violation of a rule or order of the commission is a crime, this bill would impose a state-mandated local program by creating new crimes.

The bill would make related legislative findings and declarations.

(3) Under existing law, the commission regulates public utilities, including telephone corporations and other specified entities.

This bill would require the commission, on or before January 1, 2002, to prepare and submit to the Governor and the Legislature a report on the feasibility of establishing rural telephone cooperatives or other alternative service configurations, as defined, to promote rural telephone service, *including voice and data transmission service,* in the state, as prescribed.

(4) 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 following:

(a) The Legislature has previously stated its intent that telephone consumers only be billed for charges they have authorized and that those charges be clearly identified. The Legislature has also previously identified specific rules regarding the billing company, and the person, corporation, and billing agent for any products or services on a consumer's telephone bill. Those rules focus on issues relating to description of the product, identification of charges, dispute resolution processes, provision of a toll-free contact number, and means for resolving billing disputes and complaint procedures.

(b) Until January 1, 2001, only ‘‘communications-related’’ products and services may be charged on a telephone bill, though the Public Utilities Commission is permitted to allow billing telephone companies to include commission-specified ‘‘noncommunications’’ products and services on a separate bill within the telephone bill envelope. On and after January 1, 2001, only charges for products and services authorized by the subscriber may be on the same telephone bill.

(c) The Public Utilities Commission initiated Rulemaking 00-02-004 to establish consumer rights and consumer protection rules applicable to all telecommunications utilities. The rulemaking seeks to establish consumer rights regarding disclosure, choice, privacy, public participation, oversight and enforcement, and accurate bills and redress.

(d) The Legislature believes that Rulemaking 00-02-004 provides an excellent opportunity for the Public Utilities Commission to establish any additional safeguards that may be needed for telecommunications companies that charge subscriber-authorized noncommunications-related products and services on their telephone bill.

SEC. 2. Section 739.3 of the Public Utilities Code is amended to read:

739.3. (a) The commission shall develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by transfer payments to small independent telephone corporations serving rural and small metropolitan areas. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies.

(b) For purposes of this section, small independent telephone corporations means those independent telephone corporations serving rural areas, as determined by the commission.

(c) The commission shall develop, implement, and maintain a suitable, competitively neutral, and broadbased program to establish a fair and equitable local rate support structure aided by transfer payments to telephone corporations serving areas where the cost of providing services exceeds rates charged by providers, as determined by the commission. The commission shall develop and implement the program on or before October 1, 1996. The purpose of the program shall be to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies. The commission shall structure the program required by this subdivision so that the amount of each transfer payment reasonably equals the value of the benefits of universal service to the transferor entity and its subscribers. Except as otherwise explicitly provided, this subdivision does not limit the manner in which the commission collects and disburses funds, and does not limit the manner in which it may include or exclude the revenue of transferring entities in structuring the program.

(d) Not later than December 15, 1996, the commission shall report to the Governor, the Joint Legislative Budget Committee, and the fiscal committees of the Senate and the Assembly regarding the results of the commission's universal telephone service proceeding and recommended program. The Legislature may, at its discretion, assess whether any identified problems in the universal telephone service program are issues that warrant modifications to this chapter during the 1997–98 Regular Session.

(e) Not later than December 1, 1999, the commission shall prepare a report to the Governor, the Joint Legislative Budget Committee, and the fiscal committees of the Senate and the Assembly regarding the status of the universal telephone service fund and program. The report shall consider all of the following:

(1) The effectiveness of the universal service funding mechanism in establishing equitable and nondiscriminatory contributions by all telecommunications providers to support the preservation and advancement of universal service.

(2) The extent to which the current universal telephone service program provides the continued availability of current telecommunications and information services on a competitively neutral basis, while providing adequate flexibility for provision of new services and network capabilities as technology advances.

(3) The success of the universal telephone service program in ensuring universal access, in rural and high cost areas, to services that are reasonably comparable, both in content and cost, to those services provided in urban areas.

(f) The commission shall investigate subsidy reduction, or elimination of subsidies in service areas with demonstrated competition, and report on service area auctions for high cost areas as part of the commission's universal telephone service program report required in accordance with subdivision (e).

(g) Not later than February 1, ~~2000~~ *2001*, the Legislative Analyst shall conduct a review of the state's universal telephone service program, including subsequent modifications as appropriate, and report to the Governor and the Legislature as part of the Legislative Analyst's analysis of the Budget Bill to be issued in February ~~2000~~ *2001*. In evaluating the program, the Legislative Analyst shall consider all of the following:

(1) The findings of the report required by subdivision (e).

(2) An assessment of whether any identified problems are issues that affect the continued implementation of this chapter or issues that warrant revisions of statutes or regulations.

(h) This section shall remain in effect until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2005, deletes or extends that date.

SEC. 3. Section 2890 of the Public Utilities Code, as amended by Section 65.5 of Chapter 1005 of the Statutes of 1999, is amended to read:

2890. (a) A telephone bill may only contain charges for communications-related products and services, including, but not limited to, wired and wireless communications service, Internet access, video service, information service, telephone equipment that is connected to a telecommunications network, and cable set top boxes. The commission may permit a billing telephone company to include in the same envelope with a subscriber's telephone bill, a separate bill for noncommunications-related products and services. The commission may also specify the kinds of noncommunications-related products and services that may be billed in this manner.

(b) A telephone bill, and a bill for noncommunications-related products and services that is included in the same envelope as a telephone bill, may only contain charges for products or services, the purchase of which the subscriber has authorized.

(c) When a person or corporation obtains a written order for a product or service, the written order shall be a separate document from any solicitation material. The sole purpose of the document is to explain the nature and extent of the transaction. Written orders and written solicitation materials shall be unambiguous, legible, and in a minimum 10-point type. Written or oral solicitation materials used to obtain an order for a product or service shall be in the same language as the written order. Written orders may not be used as entry forms for sweepstakes, contests, or any other program that offers prizes or gifts.

(d) The commission may only permit a subscriber's local telephone service to be disconnected for nonpayment of charges relating to the subscriber's basic local exchange telephone service, long distance telephone service within a local access and transport area (intraLATA), long-distance telephone service between local access and transport areas (interLATA), and international telephone service.

(e) (1) A billing telephone company shall clearly identify, and use a separate billing section for, each person, corporation, or billing agent that generates a charge on a subscriber's telephone bill. A billing telephone company may not bill for a person, corporation, or billing agent, unless that person, corporation or billing agent complies with paragraph (2).

(2) Any person, corporation, or billing agent that charges subscribers for products or services on a telephone bill, or on a bill for noncommunications-related products and services that is included in the same envelope as a telephone bill, shall do all of the following:

(A) Include, or cause to be included, in the bill the amount being charged for each product or service, including any taxes or surcharges, and a clear and concise description of the service, product, or other offering for which a charge has been imposed.

(B) Include, or cause to be included, for each entity that charges for a product or service, information with regard to how to resolve any dispute about that charge, including the name of the party responsible for generating the charge, a toll-free telephone number of the entity responsible for resolving disputes regarding the charge, and a description of the manner in which a dispute regarding the charge may be addressed. Each telephone bill shall include the appropriate telephone numbers of the commissions that a customer may use to register a complaint.

(C) Establish, maintain, and staff a toll-free telephone number to respond to questions or disputes about its charges and to provide the appropriate addresses to which written questions or complaints may be sent. The person, corporation, or billing agent that generates a charge may also contract with a third party, including, but not limited to, the billing telephone corporation, to provide that service on behalf of the person, corporation or billing agent.

(D) Provide a means for expeditiously resolving subscriber disputes over charges for a product or service, the purchase of which was not authorized by the subscriber. In the case of a dispute, there is a rebuttable presumption that an unverified charge for a product or service was not authorized by the subscriber and that the subscriber is not responsible for that charge. With regard to direct dialed telecommunications services, evidence that a call was dialed is prima facie evidence of authorization. If recurring charges arise from the use of those subscriber-initiated products or services, the recurring charges are subject to this section.

(f) If an entity responsible for generating a charge on a telephone bill, or on a bill for noncommunications-related products and services that is included in the same envelope as a telephone bill, receives a complaint from a subscriber that the subscriber did not authorize the purchase of the product or service associated with that charge, the entity, not later than 30 days from the date on which the complaint is received, shall verify the subscriber’s authorization of that charge or undertake to resolve the billing dispute to the subscriber’s satisfaction.

(g) For purposes of this section, ‘‘billing agent’’ is the clearinghouse or billing aggregator.

(h) This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 2890 of the Public Utilities Code, as amended by Section 65.7 of Chapter 1005 of the Statutes of 1999, is amended to read:

2890. (a) A telephone bill may only contain charges for products or services, the purchase of which the subscriber has authorized.

(b) When a person or corporation obtains a written order for a product or service, the written order shall be a separate document from any solicitation material. The sole purpose of the document is to explain the nature and extent of the transaction. Written orders and written solicitation materials shall be unambiguous, legible, and in a minimum 10-point type. Written or oral solicitation materials used to obtain an order for a product or service shall be in the same language as the written order. Written orders may not be used as entry forms for sweepstakes, contests, or any other program that offers prizes or gifts.

(c) The commission may only permit a subscriber’s local telephone service to be disconnected for nonpayment of charges relating to the subscriber’s basic local exchange telephone service, long-distance telephone service within a local access and transport area (intraLATA), long-distance telephone service between local access and transport areas (interLATA), and international telephone service.

(d) (1) A billing telephone company shall clearly identify, and use a separate billing section for, each person, corporation, or billing agent that generates a charge on a subscriber’s telephone bill. A billing telephone company may not bill for a person, corporation, or billing agent, unless that person, corporation or billing agent complies with paragraph (2).

(2) Any person, corporation, or billing agent that charges subscribers for products or services on a telephone bill shall do all of the following:

(A) Include, or cause to be included, in the telephone bill the amount being charged for each product or service, including any taxes or surcharges, and a clear and concise description of the service, product, or other offering for which a charge has been imposed.

(B) Include, or cause to be included, for each entity that charges for a product or service, information with regard to how to resolve any dispute about that charge, including the name of the party responsible for generating the charge and a toll-free telephone number or other no cost means of contacting the entity responsible for resolving disputes regarding the charge and a description of the manner in which a dispute regarding the charge may be addressed. Each telephone bill shall include the appropriate telephone number of the commission that a subscriber may use to register a complaint.

(C) Establish, maintain, and staff a toll-free telephone number to respond to questions or disputes about its charges and to provide the appropriate addresses to which written questions or complaints may be sent. The person, corporation, or billing agent that generates a charge may also contract with a third party, including, but not limited to, the billing telephone corporation, to provide that service on behalf of the person, corporation or billing agent.

(D) Provide a means for expeditiously resolving subscriber disputes over charges for a product or service, the purchase of which was not authorized by the subscriber. In the case of a dispute, there is a rebuttable presumption that an unverified charge for a product or service was not authorized by the subscriber and that the subscriber is not responsible for that charge. With regard to direct dialed telecommunications services, evidence that a call was dialed is prima facie evidence of authorization. If recurring charges arise from the use of those subscriber-initiated services, the recurring charges are subject to this section.

(e) If an entity responsible for generating a charge on a telephone bill receives a complaint from a subscriber that the subscriber did not authorize the purchase of the product or service associated with that charge, the entity, not later than 30 days from the date on which the complaint is received, shall verify the subscriber's authorization of that charge or undertake to resolve the billing dispute to the subscriber's satisfaction.

(f) For purposes of this section, ''billing agent'' is the clearinghouse or billing aggregator.

(g) This section shall become operative on July 1, 2001.

SEC. 5. Section 2890.1 is added to the Public Utilities Code, to read:

2890.1. The commission shall, on or before July 1, 2001, adopt any additional rules it determines to be necessary to implement the billing safeguards of Section 2890, for the inclusion of noncommunications-related products and services in telephone bills.

SEC. 6. (a) On or before January 1, 2002, the Public Utilities Commission shall prepare and submit to the Governor and the Legislature a report on the feasibility of establishing rural telephone cooperatives or other alternative service configurations, or both, to promote rural telephone service, *including voice and data transmission service,* in the state. The commission shall include in the report all of the following:

(1) Costs to California ratepayers, telecommunications carriers, and cooperative members of all feasible alternatives to rural telephone service.

(2) Sources of support for grants, loans, or federal program moneys and how these sources are currently funded.

(3) The implications for ratepayers of, and investors in, public utilities, if rural telephone cooperatives, or other alternative service configurations, are permitted to expand the scope of their activities beyond a role as providers of last resort for unserved rural communities.

(4) The number of communities or areas of the state that contain over 20 families that are not served by traditional telephone service.

(5) Recommendations concerning appropriate legislation.

(b) The term ‘‘alternative service configurations’’ includes, but is not limited to, all of the following:

(1) Combining federal sources of funding with local subsidies for construction of telecommunications infrastructure.

(2) Designing new sources of state funding similar to existing state high-cost funds pursuant to paragraphs (1) and (2) of subdivision (a) of Section 270 of the Public Utilities Code.

(3) Other options being considered by other states or the federal government to extend telephone service to unserved areas.

SEC. 7. 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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