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~~Senate~~ BILL NO. 243

INTRODUCED BY Steve Fournier, Dorte, Beck, Peck, Spangue
Cross, one, Sunyagood, Bea McCarthy, Beaudry, Bishop

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STANDARDS FOR WHOLESALE PRICING OF TELECOMMUNICATIONS SERVICES AND INCLUDING INDIVIDUAL NETWORK ELEMENTS AND PROHIBITING CERTAIN SUBSIDIES; AMENDING SECTION 69-3-806, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Wholesale pricing standards.** If the commission is requested by a telecommunications carrier to establish wholesale prices for services provided by a telecommunications carrier, it may not establish a wholesale price using a standardized or default discount value to be applied to the applicable retail price.

NEW SECTION. **Section 2. Pricing of individual network elements.** (1) If the commission is requested by a telecommunications carrier to establish the price of the individual network elements used by a carrier of telecommunications services to provide its services, the commission shall set prices at a level sufficient to recover the full actual cost of service. Actual cost of service, for the purposes of this section, means the total actual cost reflected in the books of account of a telecommunications carrier of providing a public telecommunications service, network function, or group of public telecommunications services or network functions, including:

(a) a reasonable share of the joint and common costs of the telecommunications carrier in a manner in which the telecommunications carrier has a reasonable opportunity to recover its total joint and common costs;

(b) depreciation for facilities must be based upon forward-looking asset's lives and must be reflected in the books of account of the telecommunications carrier;

(c) fill factors that recognize the need for spare capacity in fulfilling carrier-of-last-resort responsibilities; and

(d) a fair return on investments.

1 (2) The actual costs as reflected in the books of account of the telecommunications carrier are
2 presumed to be reasonable unless the commission determines from a preponderance of the evidence that
3 the costs are imprudent.

4 (3) If a telecommunications carrier uses average prices for services to end users without regard
5 to the customer's location, the commission must similarly establish an average cost and wholesale price
6 for each individual network element sold to other telecommunications carriers. The commission may only
7 depart from average pricing for network elements to the extent that the retail prices to end users of a
8 telecommunications carrier have departed from average pricing.

9 (4) The commission may not use a default price or proxy price as the price of an individual network
10 element. In lieu of providing a cost study, the telecommunications carrier may propose that the commission
11 adopt the prices of individual network elements that are charged by another similarly situated
12 telecommunications carrier that have previously been approved by the commission.

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14 **NEW SECTION. Section 3. Prohibited subsidies.** The commission may not subsidize the price of
15 any telecommunications service, including wholesale prices or the prices of individual network elements
16 by reducing the prices to reflect an allocation or credit of revenue from another telecommunications service
17 or from the operations of an affiliated company of the carrier of telecommunications services, including a
18 publishing affiliate.

19

20 **Section 4.** Section 69-3-806, MCA, is amended to read:

21 "**69-3-806. Prohibition against cross-subsidization.** ~~(1) No~~ A provider of regulated
22 telecommunications ~~service~~ services may not use current ~~revenues~~ revenue earned or expenses incurred
23 in conjunction with services subject to regulation under this chapter to subsidize services ~~which~~ that are
24 not regulated or are not tariffed. Expenses incurred in conjunction with services that are not regulated or
25 that are not tariffed under this chapter may not be attributed to services ~~which~~ that are subject to regulation
26 for any reason.

27 ~~(2) Nothing in this section is to be construed to effect the regulatory treatment of revenues,~~
28 ~~expenses, and investment for telephone directory services currently authorized under this title."~~

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30 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be

1 codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to
2 [sections 1 through 3].

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4 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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