

HB 618 – FACT SHEET

SECTION 3(1):

Federal law requires carriers to unbundle their networks. The extent to which unbundling is required by federal law is a floor. This bill would allow the Montana PSC to add elements to those required by federal law.

The wording of Section 3(1) could imply that a carrier's obligation to unbundle elements under federal law is only triggered upon an order issued by the Montana Commission.

To clarify this, the following change might be made:

Add as new section 3(1):

"At a minimum, an incumbent local exchange company shall unbundle its network to the extent required by 47 U.S.C. §251 and Federal Communications Commission orders."

Change current section 3(1) to be section 3(2) and read as follows:

In addition to the unbundling required by [the above section 1] an incumbent local exchange carrier shall, pursuant to commission order, unbundle its network elements.

Section 3(2) would become 3(3).

SECTION 3(2):

Under this section, a carrier unbundling its network (like Qwest) can't charge its wholesale customers (like Blackfoot) more for an element than it implicitly charges itself for that same element. What that means is that Qwest (or other carrier unbundling its network) must use consistent costing for comparable elements in wholesale and retail products.

SECTION 5:

The rulemaking provision should be permissive rather than mandatory.

SECTION 6:

Rural carriers should be entitled to the exemptions afforded by federal law, but rural carriers should not be entitled to maintain a closed shop policy without exception. The federal statute provides protection for rural carriers, subject to challenge. That policy should be adopted here as well.

HB 618 PSC- REQUESTED AMENDMENT

TO: Representative Robin Hamilton
PSC Commissioners

FROM: Monica Tranel, Staff Attorney (PSC) (Helena, 444-6377)

DATE: February 16, 2005

RE: Amendment to HB 618

On behalf of the Montana Public Service Commission (PSC), Brad Molnar, PSC Commissioner, testified in support of the amendments proposed by the PSC on HB 618. The amendments reflect three changes the PSC would like to have in the bill. For your consideration the following are proposed amendments that will incorporate these changes.

PROPOSED AMENDMENT

1. Page 2, line 1.

Following: "may not sell a"

Insert: "wholesale"

2. Page 2, line 12.

Following: "commission"

Strike: "shall"

Following: "commission"

Insert: "may"

3. Page 2, line 16.

Strike: "do not apply to rural telephone companies"

Following: "[sections 1 through 5]"

Insert: "shall apply to rural telephone companies as provided at 47 U.S.C. §251(f)."