

SENATE BILL NO. 290
INTRODUCED BY J. TESTER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CRITERIA FOR PUBLIC INTEREST DETERMINATIONS BY THE PUBLIC SERVICE COMMISSION IN DESIGNATING A CARRIER AS AN ADDITIONAL ELIGIBLE TELECOMMUNICATIONS CARRIER FOR AN AREA SERVED BY A RURAL TELEPHONE COMPANY; AMENDING SECTION 69-3-840, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 69-3-840, MCA, is amended to read:

"69-3-840. Determination of eligible carrier status -- universal service support. (1) The commission is authorized to designate telecommunications carriers as eligible for federal universal service support, in accordance with 47 U.S.C. 214(e)(1) and 47 U.S.C. 254, and for any Montana universal service funds. This authorization applies to all telecommunications carriers ~~notwithstanding the~~ regardless of a carrier's exemption from further regulation by the commission.

(2) Upon the petition of a telecommunications carrier, or upon its own motion, the commission shall designate a telecommunications carrier that meets the requirements of 47 U.S.C. 214(e)(1) as an eligible telecommunications carrier for a service area designated by the commission. In the case of an area served by a rural telephone company, the term "service area" means the company's "study area" for federal universal service support unless the federal communications commission establishes a different definition of service area for the company. The term "service area" for all other telecommunications carriers means a geographic area such as a census block or grid block as established by the commission for the purpose of determining federal universal service obligations and support mechanisms.

(3) Upon receiving a petition from a telecommunications carrier and consistent with the public interest, convenience, and necessity, the commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one telecommunications carrier for a service area, ~~so~~ as long as each additional requesting telecommunications carrier meets the requirements of 47 U.S.C. 214(e)(1).

(4) (a) Before designating an additional eligible telecommunications carrier for an area served by a rural

telephone company, the commission shall find that the designation is in the public interest. For the purposes of this section, a determination of public interest by the commission must include, at a minimum, a finding that the public benefits of designating a second eligible telecommunications carrier for an area exceed the public costs of supporting multiple eligible telecommunications carriers. A determination of public interest must also include findings that the carrier petitioning to be designated as an additional eligible telecommunications carrier has shown by a preponderance of the evidence that it provides or will provide:

(i) equal access to long-distance carriers of the customers' choice for calls placed to locations outside the petitioning carrier's local calling area;

(ii) service coverage to customer locations that is comparable to that of the incumbent local exchange carrier for the entire service area for which designation is sought as shown by an independent coverage survey in a form approved by the commission; and

(iii) network capacity, as shown by detailed engineering studies, facilities diagrams, equipment specifications, and other evidence considered necessary by the commission, that is capable of providing communications to customers without blocking more than 1 call in 100 during the average busy hour of the 10 highest calling traffic days of the 4 highest calling traffic weeks of the 4 highest calling traffic months of the year for the 12 months immediately preceding the petition, based on the calling volumes experienced by the incumbent local exchange carrier for the service area for which eligible telecommunications carrier designation is sought. For the purposes of subsection (4)(b), the applicable period is the 12 months following eligible telecommunications carrier designation, and blocking standards must be applied based on the calling traffic volumes experienced by the incumbent local exchange carrier for the area at issue or the calling traffic volumes experienced by the eligible telecommunications carrier whose service capabilities are being investigated, whichever volumes are greater for the communications route at issue.

(b) If the commission grants eligible telecommunications carrier designation to a carrier that is not capable of providing the services set forth in subsection (4)(a) at the time of that carrier's petition, the commission shall hold an additional proceeding within 1 year after granting the designation to determine whether the carrier has met the requirements of subsection (4)(a). If the carrier cannot show by a preponderance of the evidence that it can provide the services set forth in subsection (4)(a), the commission shall rescind the carrier's eligible telecommunications carrier designation. The commission may also commence a proceeding on its own motion at any time following the 1-year period, and the commission shall rescind the carrier's eligible telecommunications carrier designation if the carrier cannot show, by a preponderance of the evidence, that it can provide the services set forth in subsection (4)(a) at that time.

(c) The requirements of this subsection (4) apply to any application or petition for an eligible telecommunications carrier designation upon which the commission has not yet ruled as of [the effective date of this act], even if the date of the application precedes [the effective date of this act].

~~(4)~~(5) If ~~no~~ there is not a telecommunications carrier that will provide the services that are supported by universal service support mechanisms under 47 U.S.C. 254(c) to all or a part of an unserved community that requests service, the commission shall determine which telecommunications carrier is best able to provide the service to the requesting unserved community. Any telecommunications carrier ordered to provide service under this section shall meet the requirements of 47 U.S.C. 214(e)(1) and must be designated as an eligible telecommunications carrier for that community or the unserved portion of the community.

~~(5)~~(6) The commission shall permit an eligible telecommunications carrier to relinquish its designation as an eligible carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the commission of the relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the commission shall require the remaining eligible telecommunications carrier to ensure that all customers served by the relinquishing carrier will continue to be served and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The commission shall establish a time, not to exceed 1 year after the commission approves relinquishment under this section, within which the purchase or construction must be completed."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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