

SENATE BILL NO. 335

INTRODUCED BY LAIBLE, JACKSON, BARKUS, BRUEGGEMAN, DEPRATU, DOWELL, FISHER,
GLASER, HARRINGTON, KEENAN, LAWSON, STONINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PROVISIONS RELATED TO CERTAIN RURAL ELECTRIC COOPERATIVES THAT FOLLOW FEDERAL COMMUNICATIONS COMMISSION FORMULAS FOR POLE ATTACHMENT RATES IN CERTAIN INCORPORATED MUNICIPALITIES; AND AMENDING ~~SECTIONS~~ SECTION 35-18-102 AND 35-18-104, MCA."

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

~~Section 1. Section 35-18-102, MCA, is amended to read:~~

~~"35-18-102. Definitions. In this chapter, unless the context otherwise requires, the following definitions apply:~~

~~(1) "Broadband" means transmission facilities capable of handling frequencies greater than those required for high-grade voice communication, higher than 4 kilohertz.~~

~~(2) "Cable television system" means a system that receives and amplifies the signals broadcast by one or more television stations and redistributes the signals to subscribing members of the public for a fixed or periodic fee by wire, cable, microwave, or other means, whether the means are owned or leased.~~

~~(3) "Cooperative" means a corporation organized under this chapter or a corporation that becomes subject to the provisions of this chapter.~~

~~(4) "Member" means each incorporator of a cooperative and each person admitted to and retaining membership in a cooperative as provided by the articles of incorporation or bylaws of the cooperative, including persons admitted to joint membership.~~

~~(5) "Person" includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision, or an agency of a state or political subdivision, or other organization or group of persons.~~

~~(6) "Rural area", as applied to all corporations organized under the provisions of 35-18-105(1), means:~~

~~(a) an area not included within the boundaries of an incorporated or unincorporated city, town, or village, or borough having a population in excess of 3,500 persons on March 17, 1939, or subsequent to March 17, 1939;~~

~~(b) an incorporated municipality in which 95% or more of the premises are served by an electric~~

cooperative on February 1, 1974;

~~—— (c) a former rural area annexed by a municipality and subject to 69-5-109; or~~

~~—— (d) an incorporated municipality that was served by a public utility that sold the public utility's distribution facilities within that municipality to an electric cooperative after January 1, 1998, and prior to January 1, 2003."~~

Section 1. Section 35-18-104, MCA, is amended to read:

"35-18-104. Exemption from jurisdiction of public service commission -- federal pole regulation.

(1) Cooperatives and foreign corporations transacting business in this state pursuant to this chapter:

~~—— (1) are exempt in all respects from the jurisdiction and control of the public service commission of this state; and~~

(2) ~~(A) if they operate~~ Cooperatives and foreign corporations that operate in a rural area described in 35-18-102(6)(d); shall use ~~for those areas~~ the TELECOMMUNICATIONS formulas provided in pole attachment rules of the federal communications commission or successor TELECOMMUNICATIONS formulas with respect to any matters pertaining to rates, terms, or conditions of any pole attachment agreement between themselves and any pole tenant or lessee made after April 28, 2001.

(B) A COOPERATIVE AND FOREIGN CORPORATION DESCRIBED IN SUBSECTION (2)(A) MAY NOT CHARGE MORE THAN THE MAXIMUM ALLOWABLE RATE PURSUANT TO THE TELECOMMUNICATIONS FORMULAS PROVIDED IN THE POLE ATTACHMENT RULES OF THE FEDERAL COMMUNICATIONS COMMISSION OR SUCCESSOR TELECOMMUNICATIONS FORMULAS."

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