House Research
Act Summary

CHAPTER: 214 **SESSION:** 2004 Regular Session

TOPIC: Regulation of telephone companies

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Overview

Chapter 214 addresses two issues that have emerged as consequences of the move toward deregulating telephone service: protecting consumers from unauthorized charges by third parties on their local phone bills, and modifying non-traditional regulatory schemes for telephone companies.

Increased competition and the proliferation of new telecommunications services have increased the complexity of the billing process. Companies now consolidate charges for services – long-distance, voice mail, pager service, calling cards, Internet access and others – provided by companies other than the local telephone company and pay a fee to the latter to have them placed on the local telephone bill. Only the name of the billing company, not the actual service provider, appears on the bill.

Thousands of complaints to state and federal authorities have revealed that unscrupulous bill consolidators, including some created by organized crime syndicates, are charging consumers for services they never ordered or received, a practice known as "cramming." This chapter requires local telephone companies to refund charges the consumer has not authorized.

Chapter 214 also addresses another aspect of increased competition. In 1995, the Legislature gave telephone companies the option to operate under an alternative to traditional cost of service regulation in order to provide them greater flexibility to meet competition from new technologies. An important element of this

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streamlined regulatory regime is an alternative regulation plan prepared by companies that must be approved by the Public Utilities Commission.

The plan separates a company's services into those which are price-regulated, flexibly priced, or nonprice regulated; outlines the company's commitment to invest in infrastructure improvements to make new technologies, such as broadband capabilities, available to customers; and includes a plan to maintain service quality.

Chapter 214 changes the regulations governing the extension or renewal of such plans once they have expired.

1 **Prohibition against billing for unauthorized charges.** Prohibits a telephone company or telecommunications carrier providing local service from including third-party charges for goods or services on a customer's bill unless the third-party service provider has obtained the customer's express authorization to include such charges.

Once notified of an unauthorized third-party charge by the customer, the company or carrier must remove it from the bill and refund the customer for the charge for each month it was billed, up to six months, unless the company or carrier produces evidence of the customer's prior express authorization of the charge within 14 days of the complaint.

Prior express authorization may take three forms: written authorization by the customer in the form of a letter of agency; oral authorization as verified by an independent third-party verifier; or a copy of an e-mail notice of verification sent to the customer confirming authorization of a contract entered into via the Internet.

For direct-dialed calls, evidence that the call was placed from the number that was billed is considered sufficient evidence of authorization for billing purposes.

2 **Plan duration and extension.**

Subd. 1. Plan duration. Requires telephone companies operating under an existing alternative regulation plan to give six months notice prior to the plan's termination that it will either propose a new plan, extend its existing plan, or revert to rate of return regulation.

Subd. 2. New plan. A new plan must contain a mechanism by which a company can reduce or increase rates for price-regulated services, but is exempted from the requirement to justify the company's earnings level and rates that will result from the new plan.

Subd. 3. Plan extension. (a) A company currently operating under a plan may extend it for up to three years from the expiration date or December 31, 2007, whichever is earlier, by notifying the PUC, the Department of Commerce, and the Office of the Attorney General within 30 days of the effective date of this section or within six months of the expiration date of its current or expired plan. A company that elects this option may terminate the plan at any time by notifying the same parties six months prior to the termination date.

(b) A company may extend a plan it has entered into after this section becomes effective only

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if it is in substantial compliance with the plan's quality provisions (section 237.765) and has met its infrastructure investment obligations (section 237.761, subd. 8). Under an extended plan, the rates for price-regulated services shall be capped at the level effective at the time of extension. Unless the plan provides otherwise, all other provisions in the plan shall continue in effect. A plan may only be extended once, for at least one year and not more than three years.

(c) The Department of Commerce or the Office of the Attorney General may file an objection to the extension with the PUC only if the company is not in substantial compliance with the plan's service quality provisions or has not met its infrastructure obligations. The objection must be filed within 45 days of the company's notice of its intent to extend the plan.

(d) The PUC may hold a hearing on the issues raised in such an objection; the hearing must be completed within 30 days of the filing deadline. If the PUC finds that the issues raised in the objection are valid, it may or may not reject the extension. If the issues raised are found to be invalid, the extension must be approved. Either decision must be issued within 15 days of the completion of the hearing.

(e) If no objection is filed, the PUC shall approve the extension within 60 days of the company's filing notice of its intention to extend the plan.

3 **Local rate.** Provides that a small telephone company (one with fewer than 50,000 subscribers that elects to be categorized as such) operating under an alternative regulation plan must participate jointly with the Department of Commerce to validate a customer petition filed in response to a notice issued by the company that it intends to increase rates for local services, other than switched services. (Under current law, a valid petition must contain signatures of five percent of the company's customers, or 500 customers, whichever is fewer.) The department must report its findings to the PUC within 30 days of validating the petition.

4 **AFOR plan extended; expedited approval of new plan.** Extends Qwest's alternative form of regulation plan to December 31, 2005. If Qwest, the Department of Commerce, and the Office of the Attorney General jointly file a new plan with the PUC by December 31, 2004, it becomes effective 60 days after the filing, without PUC review and approval.

5 **Effective date.** Section 1 is effective August 1, 2004; sections 2 and 4 are effective the day following final enactment.