

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

A Bill

HOUSE BILL 2542

4
5 By: Representative Napper
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For An Act To Be Entitled

8
9 AN ACT TO REPEAL ARKANSAS CODE 23-17-412.

Subtitle

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12 AN ACT TO REPEAL ARKANSAS CODE 23-17-
13 412.
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 SECTION 1. Arkansas Code 23-17-412 is repealed.

19 ~~23-17-412. Optional alternative regulation of non-tier one rural~~
20 ~~telephone companies.~~

21 ~~(a)(1) Rural telephone companies, excluding tier one companies, that~~
22 ~~file notice with the commission of an election to be regulated in accordance~~
23 ~~with the provisions of this section are authorized to determine and account~~
24 ~~for their respective revenues and expenses, including depreciation expenses,~~
25 ~~pursuant to generally accepted accounting principles, and, except as provided~~
26 ~~in this section, shall be subject to regulation only in accordance with this~~
27 ~~section and shall not be subject to any rate review or rate of return~~
28 ~~regulation by the commission.~~

29 ~~(2) The companies shall file rate lists for their~~
30 ~~telecommunications services which rates shall be effective upon filing,~~
31 ~~except the rates for basic local exchange services and switched access~~
32 ~~services, which rates shall be effective upon compliance and in accordance~~
33 ~~with the procedures in this section.~~

34 ~~(3) Any service that is not a telecommunications service is not~~
35 ~~subject to regulation by the commission, and rates for the services need not~~
36 ~~be filed with the commission.~~

1 ~~(b) On the effective date of an election pursuant to this section, the~~
 2 ~~tariffed rates of a company electing to be subject to the provisions of this~~
 3 ~~section are deemed just and reasonable and shall continue to be deemed just~~
 4 ~~and reasonable as long as any increases in such company's tariffed rates are~~
 5 ~~in accordance with the provisions of this section.~~

6 ~~(c)(1) The company may increase its basic local exchange service rates~~
 7 ~~after sixty (60) days' notice to all affected subscribers.~~

8 ~~(2) Rates for basic local exchange services may be reduced and~~
 9 ~~be effective immediately upon filing or at a later time specified in the~~
 10 ~~filing.~~

11 ~~(3) Notice by the company to its subscribers shall be by regular~~
 12 ~~mail and may be included in regular subscriber billings and shall include the~~
 13 ~~following:~~

14 ~~(A) A schedule of the proposed basic local exchange~~
 15 ~~service rate change;~~

16 ~~(B) The effective date of the proposed basic local~~
 17 ~~exchange service rate change; and~~

18 ~~(C) An explanation of the right of the subscriber to~~
 19 ~~petition the commission for a public hearing on the rate increase and the~~
 20 ~~procedure necessary to petition.~~

21 ~~(d) The subscriber petitions provided for in this section shall be~~
 22 ~~prepared as follows:~~

23 ~~(1) Form.~~

24 ~~(A) The petition shall be headed by a caption, which shall~~
 25 ~~contain:~~

26 ~~(i) The heading, "The Arkansas Public Service~~
 27 ~~Commission";~~

28 ~~(ii) The name of the company or cooperative seeking~~
 29 ~~a change in basic local exchange service rates; and~~

30 ~~(iii) The relief sought.~~

31 ~~(B) A petition substantially in compliance with the form~~
 32 ~~set forth in this subsection shall not be deemed invalid due to minor errors~~
 33 ~~in its form;~~

34 ~~(2) Body. The body of the petition shall consist of three~~
 35 ~~numbered paragraphs, if applicable, as follows:~~

36 ~~(A) Allegations of facts. The allegations of facts shall~~

1 be stated in the form of ultimate facts, without unnecessary detail, upon
 2 which the right to relief is based. The allegations shall be stated in
 3 numbered subparagraphs as necessary for clarity;

4 (B) Relief sought. The petition shall contain a brief
 5 statement of the amount of the change in basic local exchange service rates
 6 that is objected to or other relief sought; and

7 (C) Petitioners. The petition shall contain the name,
 8 address, telephone number, and signature of each subscriber signing the
 9 petition. Only the subscriber in whose name the telephone service is listed
 10 shall be counted as a petitioner. Every signature must be dated and shall
 11 have been affixed to the petition within sixty (60) days preceding its filing
 12 with the commission.

13 (e)(1) Exclusive of basic local exchange service rate changes pursuant
 14 to § 23-17-404, the commission shall have authority to review basic local
 15 exchange service rates set by the company only upon a formal petition which
 16 complies with subsection (d) of this section and which is signed by at least
 17 fifteen percent (15%) of all affected subscribers.

18 (2) If a proper petition is presented to the commission within
 19 sixty (60) days after the date of notice of the rate change was sent to
 20 affected subscribers, the commission shall accept and file the petition and,
 21 upon reasonable notice, may suspend the rates and charges at issue during the
 22 pendency of the proceedings and reinstate the rates and charges previously in
 23 effect and shall hold and complete a hearing thereon within ninety (90) days
 24 after filing to determine if the rates as proposed are just and reasonable.

25 (3) The commission may, within sixty (60) days after close of
 26 the hearing, enter an order adjusting the rates and charges at issue, except
 27 that the commission may not set any rate or charge below the basic local
 28 exchange service rates in effect at the time the new rate at issue was
 29 proposed.

30 (4) A company subject to this section shall not increase its
 31 rates without the approval of the commission for six (6) months after the
 32 date the commission enters the order.

33 (5) If the commission fails to enter any order within sixty (60)
 34 days after the close of the hearing, the petition shall be deemed denied and
 35 the rates and charges shall be deemed approved for all purposes, including
 36 the purposes of appeal.

1 ~~(f) Rates for switched access services of companies that are subject~~
 2 ~~to this section shall be determined pursuant to § 23-17-407, except as~~
 3 ~~provided in subsection (1) of this section and § 23-17-404.~~

4 ~~(g) A company subject to this section may at any time file an~~
 5 ~~application with the commission requesting the commission to prescribe just~~
 6 ~~and reasonable rates for the company. Any rate so set may thereafter be~~
 7 ~~adjusted as provided in this section.~~

8 ~~(h) Nothing herein shall restrict any customer's right to complain to~~
 9 ~~the commission regarding quality of service or the commission's authority to~~
 10 ~~enforce quality of service rules and standards which are equally imposed on~~
 11 ~~all telecommunications providers.~~

12 ~~(i)(1) The commission may, on its own motion, review basic local~~
 13 ~~exchange service rates of any company subject to this section if the company~~
 14 ~~has increased the rates by more than the greater of fifteen percent (15%) or~~
 15 ~~two dollars (\$2.00) per access line per month within any consecutive twelve-~~
 16 ~~month period, excluding rate increases ordered by the commission pursuant to~~
 17 ~~§ 23-17-404.~~

18 ~~(2) The commission shall hold and complete a hearing on the~~
 19 ~~rates within ninety (90) days after first giving notice of the hearing to the~~
 20 ~~company to determine if the rates as proposed are just and reasonable.~~

21 ~~(3) The commission may, within sixty (60) days after close of~~
 22 ~~the hearing, enter an order adjusting the rates and charges at issue, except~~
 23 ~~that the commission may not require the company to set any rate or charge~~
 24 ~~below the greater of the rates in effect at the time of the filing of the~~
 25 ~~increase or the actual cost of providing such service as established by~~
 26 ~~evidence received at the hearing.~~

27 ~~(4) In the order, the commission may order a refund of amounts~~
 28 ~~collected in excess of the rates and charges as approved at the hearing which~~
 29 ~~may be paid as a credit against billings for future services.~~

30 ~~(5) If the commission fails to enter any order within sixty (60)~~
 31 ~~days after the close of the hearing, the rates and charges shall be deemed~~
 32 ~~approved for all purposes, including for purposes of appeal.~~

33 ~~(j)(1) For purposes of this section, the commission may not require a~~
 34 ~~company that is subject to this section to set its rates below the actual~~
 35 ~~cost of the company providing the service.~~

36 ~~(2) The actual cost shall, if requested by the company, be~~

determined to include a ratable portion of administrative expenses and overhead incurred by the company in its operations and the appropriate amortization of previously deferred accounting costs.

(k) No rural telephone company subject to this section may change its basic local exchange service rates within ninety (90) days after entry of a final order adjusting such rate pursuant to subsections (g) and (i) of this section.

(l) Notwithstanding the provisions of this section, if, at any time following the three year anniversary of the notice provided under this section, another telecommunications provider is providing basic local exchange service or switched access service within a local exchange area of the company subject to this section, the company that is subject to this section, may determine its rates for basic local exchange service and switched access service within any exchange in which another telecommunications provider is providing these services, in the same manner that it determines its rates for other services pursuant to subsection (a) of this section.

(m) A rural telephone company electing to be regulated in accordance with this section may package any of its services with any other service it or its affiliates offer, with or without a discount, provided that basic local exchange services and switched access services may be purchased separately at the rates which are established in accordance with this section.

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