

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1829 Session of  
1991

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JOHNSON, ITKIN, JOSEPHS, PESCI, CORRIGAN, KRUSZEWSKI,  
STEELMAN, MELIO AND PISTELLA, JUNE 28, 1991

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 28, 1991

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, prohibiting anticompetitive behavior  
3 by telephone utilities.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 66 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 2906. Prohibition on anticompetitive behavior by telephone  
9 utilities.

10 (a) Powers of commission.--The commission shall have the  
11 duty to ensure that:

12 (1) All providers of telecommunications services are  
13 treated fairly by preventing anticompetitive behavior by  
14 telephone utilities.

15 (2) Competitive telecommunications services provided by  
16 telephone utilities are not subsidized by monopoly telephone  
17 services provided by those utilities.

18 (3) All monopoly telephone services are available to all

1 competitors of telephone utilities on a nondiscriminatory  
2 basis.

3 (b) General rule.--All rates, tolls, contracts, charges,  
4 rules and regulations of a telephone utility for conveying or  
5 transmitting messages, communications and other services  
6 rendered and for equipment and facilities supplied, whether such  
7 message, communication or service is to be performed by one  
8 utility or over one line or by two or more utilities or over two  
9 or more lines, shall be fair, just, reasonable and sufficient,  
10 and the service rendered to any person by any telephone utility  
11 shall be performed in a prompt and expeditious manner.

12 (c) Safeguards.--

13 (1) Whenever the commission determines that a service  
14 which a telephone utility provides, or proposes to provide,  
15 is competitive with a service otherwise available and shall  
16 be offered on a nonseparated basis, the commission shall:

17 (i) require that the competitive service be subject  
18 to detailed accounting and reporting requirements;

19 (ii) require that the competitive service be  
20 provided pursuant to such safeguards necessary to ensure  
21 that rates for monopoly services do not subsidize  
22 competitive services;

23 (iii) require that the competitive service be  
24 provided pursuant to anticompetitive safeguards, which  
25 may include imputing the price of monopoly services used  
26 in providing competitive service as a cost of providing  
27 such service, or offering the tariff rates for such  
28 monopoly services separately and individually and on a  
29 nondiscriminatory basis to all persons;

30 (iv) require that the rates for a competitive

1 service provided by the telephone utility cover the cost  
2 of providing the service; and

3 (v) require that the competitive service be provided  
4 by the telephone utility pursuant to any other  
5 requirement that the commission determines is necessary  
6 to ensure the protection of the ratepayer.

7 (2) Whenever the commission determines that a service  
8 which a telephone utility provides, or proposes to provide,  
9 is competitive with a service otherwise available and shall  
10 be offered by a fully separated subsidiary or affiliate, the  
11 commission shall:

12 (i) in order to avoid any subsidy, require the  
13 telephone utility to allocate its costs related to the  
14 service offered by the separated subsidiary or affiliate  
15 in the same manner as required pursuant to paragraph  
16 (1)(i) through (iv); and

17 (ii) require the telephone utility to recover from  
18 the separated subsidiary or affiliate, and credit to its  
19 own revenues for accounting and ratemaking purposes,  
20 charges for the reasonable value of any intangible assets  
21 used in the establishment or offering of a competitive  
22 service.

23 (3) No telephone utility shall, as to the provision of  
24 access to the network, make or give any undue preference or  
25 undue advantage to the service of one person versus another,  
26 or to itself.

27 (4) In determining whether rates for a competitive  
28 service are subsidized by monopoly services and whether the  
29 rates for a competitive service cover the cost of providing  
30 the service, the commission shall use a stand-alone cost of

1 service analysis as defined in section 1325 (relating to  
2 local exchange service increases; limitation).

3 (5) The commission shall provide expedited proceedings  
4 for determining complaints or violations of this section and  
5 shall have authority to issue restraining orders to halt such  
6 action by telephone utilities. The commission may initiate  
7 such a proceeding either upon its own motion or upon the  
8 complaint of a ratepayer or competitor.

9 (6) This section shall not be construed to diminish the  
10 powers and duties of the commission under any other provision  
11 of law.

12 Section 2. This act shall take effect in 60 days.