

SECOND REGULAR SESSION

HOUSE BILL NO. 1069

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JOHNSON (47) (Sponsor) AND BRINGER (Co-sponsor).

Pre-filed December 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3471L.01I

AN ACT

To repeal section 392.240, RSMo, and to enact in lieu thereof one new section relating to telecommunications services rates.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 392.240, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 392.240, to read as follows:

392.240. 1. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon a complaint, that the rates, charges, tolls or rentals demanded, exacted, charged or collected by any telecommunications company for the transmission of messages or communications, or for the rental or use of any telecommunications facilities or that the rules, regulations or practices of any telecommunications company affecting such rates, charges, rentals or service are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of law, or that the maximum rates, charges or rentals chargeable by any such telecommunications company are insufficient to yield reasonable compensation for the service rendered, the commission shall with due regard, among other things, to a reasonable average return upon the value of the property actually used in the public service and of the necessity of making reservation out of income for surplus and contingencies, determine the just and reasonable rates, charges and rentals to be thereafter observed and in force as the maximum to be charged, demanded, exacted or collected for the performance or rendering of the service specified and shall fix the same by order to be served upon all telecommunications companies

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 by which such rates, charges and rentals are thereafter to be observed, and thereafter no increase
16 in any rate, charge or rental so fixed shall be made without the consent of the commission.

17 2. Whenever the commission shall be of the opinion, after a hearing had upon its own
18 motion or upon complaint, that the rules, regulations or practices of any telecommunications
19 company are unjust or unreasonable, or that the equipment or service of any telecommunications
20 company is inadequate, insufficient, improper or inefficient, the commission shall determine the
21 just, reasonable, adequate, efficient and proper regulations, practices, equipment and service
22 thereafter to be installed, to be observed and used and to fix and prescribe the same by order to
23 be served upon every telecommunications company to be bound thereby, and thereafter it shall
24 be the duty of every telecommunications company to which such order is directed to obey each
25 and every such order so served upon it and to do everything necessary or proper in order to
26 secure compliance with and observance of every such order by all its officers, agents and
27 employees according to its true intent and meaning. Nothing contained in this chapter shall be
28 construed as giving to the commission power to make any order, direction or requirement
29 requiring any telecommunications company to perform any act which is unjust or unreasonable
30 or in violation of any law of this state or of the United States not inconsistent with the provisions
31 of this chapter.

32 3. Whenever the commission, after a hearing had upon its own motion or upon
33 complaint, shall find that a physical connection can reasonably be made between the lines of two
34 or more telecommunications companies whose facilities can be made to form a continuous link
35 of communication by the construction and maintenance of suitable connections for the transfer
36 of messages or conversations, and that public convenience and necessity will be subserved
37 thereby, or shall find that two or more telecommunications companies have failed to establish
38 joint rates, tolls or charges for service by or over their facilities, and that joint rates, tolls or
39 charges ought to be established, the commission may, by its order, require that such connection
40 be made, except where the purpose of such connection is primarily to secure the transmission
41 of local telecommunications service and the telecommunications be transmitted over such
42 connection under such rules and regulations as the commission may establish, and prescribe
43 through lines and joint rates, tolls and charges to be made, and to be used, observed and in force
44 in the future. If any two telecommunications companies do not agree upon the division between
45 them of the cost of such physical connection or connections or the division of the joint rates, tolls
46 or charges established by the commission over such through facilities, the commission shall have
47 authority, after further hearing, to establish such division by supplemental order.

48 **4. After due hearing, the commission may order, upon its own motion or upon**
49 **application, an incumbent local exchange telecommunications company to implement or**
50 **change an optional or mandatory toll-free calling plan outside a local calling scope but**

51 **within a community of interest. An application may be filed on behalf of at least fifteen**
52 **percent of the local exchange telecommunications subscribers within the requesting**
53 **exchange or a governing body of a municipality or school district within the requesting**
54 **exchange.**

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