

AMENDED IN ASSEMBLY APRIL 24, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 828

Introduced by Assembly Member Conroy

February 22, 1995

An act to add Section 495.6 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 828, as amended, Conroy. Telecommunications: service options.

Under existing law, every public utility other than a common carrier is required to file with the commission, and to print and keep open for public inspection, all rates, tolls, rentals, charges, and classifications, and all rules, contracts, privileges, and facilities as they relate to rates, tolls, rentals, charges, classifications, or services, *and to comply with rules and regulations adopted by the commission with respect to rate changes.*

Existing law, until January 1, 1998, authorizes the commission, by rule or order, to waive for certain classes of telephone corporations the above filing requirements, in full or in part, for telephone services defined as enhanced services by the commission.

This bill would permit the commission, by rule or order, to partially or completely exempt telecommunications services offered by telephone or telegraph corporations from the above ~~filing~~ *rate change* requirements if the commission

determines that the provider of the service lacks significant market power in the market for that service *or that sufficient consumer protections exist*, and to revoke any exemption so granted.

The bill would require the commission to establish enumerated consumer protection rules for the exempted services, and would require the commission to report to the Legislature by January 1, 1997, on its consumer protection rules and implementation procedures to allow telephone corporations to be exempted from the tariffing requirements.

Because violations of orders, decisions, rules, or other requirements of the Public Utilities Commission are misdemeanors, this bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 495.6 is added to the Public~~
2 SECTION 1. Section 495.6 is added to the Public
3 Utilities Code, to read:
4 495.6. (a) The commission may, by rule or order,
5 establish procedures to allow telephone or telegraph
6 corporations to apply for the exemption of certain
7 telecommunications services from the tariffing
8 requirements of Sections 454, 489, 491, and 495.
9 (b) The commission may, by rule or order, partially or
10 completely exempt certain telecommunications services,
11 except residential basic exchange service offered by
12 telephone or telegraph corporations, from the tariffing
13 requirements of Sections 454, 489, 491, and 495 if either of
14 the following conditions is met:



1 (1) *The commission determines that the telephone*
2 *corporation lacks significant market power in the market*
3 *for that service for which an exemption from Sections 454,*
4 *489, 491, and 495 is being requested. Criteria to determine*
5 *market power shall include, but not be limited to, the*
6 *following: company size, market share, and type of*
7 *service for which an exemption is being requested. The*
8 *commission shall promulgate rules for determining*
9 *market power based on these and other appropriate*
10 *criteria.*

11 (2) *The commission has determined that sufficient*
12 *consumer protections exist in the form of rules and*
13 *enforcement mechanisms to minimize the risk to*
14 *consumers and competition from unfair competition or*
15 *anticompetitive behavior in the market for the*
16 *telecommunications service for which a provider is*
17 *requesting an exemption from Sections 454, 489, 491, and*
18 *495. This paragraph does not apply to monopoly services*
19 *for which the commission retains exclusive authority to*
20 *set or change rates.*

21 (c) *Before implementing procedures to allow*
22 *telephone corporations to apply for the exemption of*
23 *certain telecommunications services from the tariffing*
24 *requirements of Sections 454, 489, 491, and 495, and no*
25 *later than September 30, 1996, the commission shall*
26 *establish consumer protection rules for those exempted*
27 *services that include, but are not limited to:*

28 (1) *Rules regarding the availability of rates, terms, and*
29 *conditions of service to consumers.*

30 (2) *Rules regarding notices to consumers of rate*
31 *increases and decreases, changes in terms and conditions*
32 *of service, and change of ownership.*

33 (3) *Rules to identify and eliminate unacceptable*
34 *marketing practices including, but not limited to,*
35 *fraudulent marketing practices.*

36 (4) *Rules to assure that aggrieved consumers have*
37 *speedy, low-cost, and effective avenues available to seek*
38 *relief in a reasonable time.*

1 (5) Rules to assure consumers that their right to
2 informational privacy for services over which the
3 commission has oversight.

4 (6) Rules to assure a telephone corporation's
5 cooperation with the commission investigations of
6 customer complaints.

7 (d) The commission shall report to the Legislature by
8 January 1, 1997, on its consumer protection rules and
9 implementation procedures to allow telephone
10 corporations to be exempted from the tariffing
11 requirements of Sections 454, 489, 491, and 495.

12 (e) Nothing in this section shall require that the
13 commission exempt any telecommunications service or
14 telecommunications service provider from the
15 requirements of Sections 454, 489, 491, and 495, nor shall
16 this section limit the authority of the commission to
17 require telephone corporations to provide it with
18 contemporaneous information about the current terms,
19 conditions, and prices under which telecommunications
20 services exempted, in whole or in part, from Sections 454,
21 489, 491, and 495 are being offered to subscribers.

22 (f) The commission, after notice and hearing if
23 requested, may cancel, revoke, or suspend any exemption
24 granted under subdivision (b) to any telephone
25 corporation that fails to comply with any of the rules
26 established by the commission pursuant to subdivision
27 (c).

28 (g) Any telecommunications service exempted from
29 the tariffing requirements of Sections 454, 489, 491, and
30 495 shall not be subject to the limitation on damages that
31 applies to tariffed telecommunications services.

32 (h) The provisions of this section do not apply to
33 commercial mobile services as defined by the Omnibus
34 Budget Reconciliation Act of 1993 (Public Law 103-66).

35 SEC. 2. No reimbursement is required by this act
36 pursuant to Section 6 of Article XIII B of the California
37 Constitution because the only costs that may be incurred
38 by a local agency or school district will be incurred
39 because this act creates a new crime or infraction,
40 eliminates a crime or infraction, or changes the penalty



1 *for a crime or infraction, within the meaning of Section*
2 *17556 of the Government Code, or changes the definition*
3 *of a crime within the meaning of Section 6 of Article*
4 *XIII B of the California Constitution.*

5 *Notwithstanding Section 17580 of the Government*
6 *Code, unless otherwise specified, the provisions of this act*
7 *shall become operative on the same date that the act*
8 *takes effect pursuant to the California Constitution.*

9 ~~Utilities Code, to read:~~

10 ~~495.6. The commission may, by rule or order, partially~~
11 ~~or completely exempt telecommunications services~~
12 ~~offered by telephone or telegraph corporations from the~~
13 ~~filing requirements pursuant to Sections 454, 489, and 495~~
14 ~~if the commission determines that the provider of the~~
15 ~~service lacks significant market power in the market for~~
16 ~~that service. The commission, by rule or order, may~~
17 ~~revoke any exemption granted under this section.~~

