

AMENDED IN SENATE APRIL 17, 1995

AMENDED IN SENATE MARCH 27, 1995

SENATE BILL

No. 665

Introduced by Senators Russell, Kopp and Monteith
(Coauthor: Assembly Member Conroy)

February 22, 1995

An act to add Section 1013 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 665, as amended, Russell. Public utilities: telecommunications.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities, including telephone and telegraph corporations. Existing law requires a public utility, including a telephone and telegraph corporation, to obtain a certificate of public convenience and necessity from the commission in order to construct or extend a line, plant, or system.

This bill would permit the commission by rule or order, to exempt certain telecommunications services offered by telephone and telegraph corporations that have been found not to have monopoly power or market power in a relevant market or markets by the commission from these certification requirements and instead subject them to registration as the commission may determine. 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: yes.

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

1 SECTION 1. Section 1013 is added to the Public
2 Utilities Code, to read:
3 1013. (a) The commission may by rule or order,
4 partially or completely exempt certain
5 telecommunications services offered by telephone and
6 telegraph corporations from the certification
7 requirements of Section 1001 and instead subject them to
8 registration as the commission may determine.
9 Telephone corporations that the commission determines
10 have monopoly power or market power in a relevant
11 market or markets shall have a certificate of public
12 convenience and necessity and shall not be eligible for
13 designation as registered telephone corporations. A
14 telephone corporation that has been found not to have
15 monopoly power or market power in a relevant market
16 or markets by the commission shall be eligible for
17 registration subject to the approval of the commission. A
18 telephone corporation operating in this state shall either
19 have a certificate of public convenience and necessity or
20 be registered under this section or be a telephone
21 corporation authorized to operate in California without
22 a certificate of public convenience and necessity.
23 (b) Registered telephone corporations qualifying
24 under this section shall maintain an active registration
25 with the commission at all times and comply with
26 commission rules and regulations established for



1 registered telephone corporations qualifying under this
2 section.

3 (c) The registration of registered telephone
4 corporations qualifying under this section shall be on a
5 form prescribed by the commission and shall contain any
6 information the commission may by rule or order require,
7 but shall include as a minimum the name and address of
8 the telephone corporation's registered agent, if any, the
9 name, address, and title of each officer or director, and a
10 description of the telecommunications services it offers or
11 intends to offer.

12 (d) *Prior to designating any telephone corporation for*
13 *registration status, the commission shall adopt rules to do*
14 *both of the following:*

15 (1) *Verify the financial viability of the corporation.*

16 (2) *Verify that the officers of the corporation have no*
17 *prior history of committing fraud on the public.*

18 (e) The commission shall require as a precondition to
19 registration the procurement of a performance bond
20 sufficient to cover taxes or fees, or both, collected from
21 customers and held for remittance and advances or
22 deposits the telecommunications company may collect
23 from its customers, or order that those advances or
24 deposits be held in escrow or trust.

25 ~~(e)~~

26 (f) The commission may, with or without a hearing,
27 grant a telephone corporation registration status and an
28 exemption from the certification requirements of Section
29 1001. However, upon timely application, any person
30 entitled to be heard may file a protest on whether a
31 telephone corporation should be eligible for registration
32 status and the granting of an exemption from the
33 certification requirement of Section 1001. Upon a
34 determination that the protest has presented a prima
35 facie case that a telephone corporation should not be
36 granted registration status and an exemption from
37 Section 1001, a hearing shall be held.

38 ~~(f)~~

39 (g) The commission, after notice and a hearing if
40 requested, may cancel, revoke, or suspend the



1 registration of any telephone corporation upon any of the
2 following grounds:

3 (1) The corporation does not provide the information
4 required by this article.

5 (2) The corporation fails to provide or maintain a
6 performance bond.

7 (3) The corporation conducts any illegal telephone
8 operations.

9 (4) The corporation violates any of the applicable
10 provisions of this code or of any regulations issued
11 thereunder.

12 (5) The corporation violates any order, decision, rule,
13 regulation, direction, demand, or requirement
14 established by the commission under this code.

15 (6) The corporation fails to pay any fee or fine imposed
16 upon the utility under this code.

17 (7) The corporation files a false statement to the
18 commission.

19 (8) The corporation knowingly defrauds a customer.

20 ~~(g)~~

21 (h) As an alternative to the cancellation, revocation, or
22 suspension of a registration, the commission, after notice
23 and a hearing, may impose upon the holder of the
24 registration a fine in an amount not to exceed twenty
25 thousand dollars (\$20,000) for each offense, and order
26 reparations and restitution to customers for each offense.

27 ~~(h)~~

28 (i) Every violation of this section or any part of any
29 order, decision, decree, rule, direction, demand, or
30 requirement of the commission, by any telephone
31 corporation or person is a separate and distinct offense,
32 and in case of a continuing violation each day's
33 continuance thereof shall be a separate and distinct
34 offense.

35 ~~(i)~~

36 (j) In construing and enforcing this section relating to
37 penalties, the act, omission, or failure of any officer, agent,
38 or employee of any registered telephone corporation
39 qualifying under this section acting within the scope of his
40 or her official duties or employment, shall in every case



1 be the act, omission, or failure of the corporation. The
2 commission may assess interest to commence upon the
3 day the payment is delinquent. All fines, assessments, and
4 interest collected shall be deposited at least once each
5 month in the General Fund.

6 ~~(j)~~

7 (k) Actions to enforce the decision of the commission
8 ordering the payment of fines, reparations, or restitution
9 under this section shall be brought in the name of the
10 people of the State of California, in the superior court of
11 the county, or city and county, in which the corporation
12 complained of, if any, has its principal place of business,
13 or in which the person, if any, complained of, resides or
14 in which the commission has offices. The enforcement of
15 a commission decision or order under this section shall be
16 commenced and prosecuted to final judgment by the
17 attorney of the commission.

18 (l) *The provisions of this section do not apply to*
19 *Commercial Mobile Radio Services as defined by the*
20 *Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66).*

21 SEC. 2. No reimbursement is required by this act
22 pursuant to Section 6 of Article XIII B of the California
23 Constitution because the only costs that may be incurred
24 by a local agency or school district will be incurred
25 because this act creates a new crime or infraction,
26 eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section
28 17556 of the Government Code, or changes the definition
29 of a crime within the meaning of Section 6 of Article
30 XIII B of the California Constitution.

31 Notwithstanding Section 17580 of the Government
32 Code, unless otherwise specified, the provisions of this act
33 shall become operative on the same date that the act
34 takes effect pursuant to the California Constitution.

