

SS SCS HCS HB 1779 -- UTILITY SERVICES

This bill changes the laws regarding telecommunications services, natural gas safety penalties, and excavation involving utilities.

TELECOMMUNICATIONS SERVICES

The bill:

- (1) Requires interconnected voice over Internet protocol (VOIP) service providers to be registered with the Missouri Public Service Commission;
- (2) Defines "interconnected VOIP service" based on the Federal Communications Commission guidelines and specifies that interconnected VOIP service is not to be considered as a telecommunications service;
- (3) Requires VOIP service providers to be subject to the same exchange access charges imposed on telecommunications services providers;
- (4) Requires VOIP providers to charge, collect, and remit the appropriate fees to fund the Missouri Universal Service Fund, telecommunications relay services, and local enhanced 911; file annual reports with the commission; and develop a process for handling customer questions and complaints;
- (5) Reduces from 60 to 30 the number of days that the commission can suspend a proposed rate for new telecommunications services;
- (6) Allows for the use of price caps by incumbent local exchange companies (ILECs) where a VOIP service provider has registered with the Missouri Public Service Commission. Price caps for basic services will be adjusted annually based upon the federal Consumer Price Index. Non-basic telecommunications services are exempt from price caps;
- (7) Allows ILECs some discretion to set maximum rates for basic local services in noncompetitive exchanges based on specified criteria and imposes limited annual increases to protect consumers;
- (8) Changes certain criteria for determining when ILECs gain competitive status in exchanges;
- (9) Allows ILECs to obtain rule and statute waivers in the same manner as other regulated companies. The commission may reimpose quality of service and billing standards if it finds that the ILEC has engaged in a pattern or practice of inadequate service;

(10) Allows ILECs providing basic local telecommunications services to businesses to be classified as competitive if two or more other service providers are providing either business or residential basic local telecommunications services in the exchange. ILECs providing basic local telecommunications services to residences may be classified as competitive if two or more other service providers are providing residential basic local telecommunications services in the exchange;

(11) Requires the commission to maintain records of competitive companies, changes the biannual review of competitive status from mandatory to discretionary, and specifies new criteria for maximum allowable prices in exchanges that are not deemed competitive but imposes limited annual increases to protect consumers;

(12) Requires the commission to determine a price-cap regulated company to be competitive and no longer subject to price-cap regulation if 55% or more of its subscriber-access lines are in competitive exchanges. Rates for basic local service in formerly noncompetitive exchanges are capped at the average rate for basic local service in the ILEC's competitive exchanges for four years in increments not to exceed \$2 per month each year following the finding to protect consumers;

(13) Revises the manner in which price-cap regulated companies can rebalance rates on a revenue neutral basis. Price-cap regulated companies experiencing competition may raise basic local rates up to the average rate for similar services in that company's competitive exchanges in increments not to exceed \$2 per month each year for a four-year period to protect consumers;

(14) Allows all companies an alternative method for gaining competitive classification for individual services on a company-wide basis. A company may also gain competitive status as a whole if a majority of its services are declared competitive;

(15) Eliminates additional certification requirements imposed on competitive companies for certain small, rural areas served by an ILEC;

(16) Allows the commission to investigate and resolve customer complaints based on federal laws and regulations;

(17) Establishes a cap on the exchange access rates of local exchange companies when they are classified as competitive so that they cannot raise the exchange access service rates charged to other carriers;

(18) Allows existing alternative local exchange carriers that possess a certificate of service authority to provide basic local telecommunications service to be granted statewide authorization; and

(19) Allows market pricing on a statewide basis for intrastate operator and directory services including directory assistance services.

#### NATURAL GAS SAFETY PENALTIES

The bill creates penalties for corporations, persons, and public utilities that violate any law, order, decision, decree, rule, direction, demand, or requirement of the Missouri Public Service Commission relating to federally mandated natural gas safety standards. Municipalities that own gas plants are only liable for violations of natural gas safety laws, rules, and orders.

The maximum penalty per violation will be \$15,000, and the maximum penalty for multiple violations or a continuing violation of the same rule will be \$150,000. Beginning January 1, 2015, the maximum penalties will be \$20,000 and \$200,000; beginning January 1, 2025, \$25,000 and \$250,000; beginning January 1, 2035, \$30,000 and \$300,000; and beginning January 1, 2040, \$40,000 and \$400,000.

In determining penalty amounts, the commission may consider the degree of culpability, prior violations, the effect of the penalty on operations, good faith efforts at compliance, ability to pay, and any other matters deemed relevant.

The acts and omissions of officers, agents, and employees of any corporation, person, public utility, or other owner of a gas plant will be considered the acts or omissions of the gas plant owner.

#### EXCAVATION INVOLVING UTILITIES

The bill:

(1) Requires the owners of specified utility lines used for certain public purposes or located on public easements, lands, or right-of-ways or on private lands not owned by the owner to conform to the requirements of the Underground Facility Safety and Damage Prevention Act;

(2) Exempts the Highways and Transportation Commission from being a notification center participant for excavation purposes after December 31, 2011, but it may continue to be a participant if it chooses;

(3) Reduces from five years to one year a record-keeping requirement by the notification center regarding the list of pipeline excavators who gave notice of their intent to excavate;

(4) Requires excavators to provide the notification center with information on whether their excavation involves public right-of-ways or easements for vehicular traffic;

(5) Removes the requirement that an excavator mark excavation locations when the location of underground facilities cannot be determined by the facility owner;

(6) Removes the requirement that all notices of intent to excavate be in a written document and allows oral and electronic notification of the intent to be considered as an official record;

(7) Allows excavators to make a design request through the notification center requiring the marking of underground facilities within five working days by the facility owners. These requests do not supersede other notice requirements for excavation;

(8) Requires facility owners to contact excavators within two working days starting at 12:00 a.m. following the receipt of a notice of intent to excavate;

(9) Requires facility owners to respond to a notice of an emergency within two hours. Excavators may be liable for any costs incurred by the owner or operator because of a false emergency situation report; and

(10) Repeals an agricultural exception to excavation requirements in Section 319.036, RSMo.

The provisions regarding excavation involving utilities become effective January 1, 2009.