

On the Introduced bill, delete everything after the enacting clause and insert:

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**Section 1.** That a NEW SECTION be added:

**49-31-3.5. Reclassification proceeding for noncompetitive service--Factors in determining reclassification.**

A price cap local exchange carrier may petition the commission to declare a noncompetitive service reclassified as an emerging competitive service or a fully competitive service as it affects a customer or set of customers within a particular exchange. The petition shall be filed with the commission and served on any affected customer or person. The commission, in determining how a telecommunications service is to be classified, shall consider:

- (1) The number of alternative providers of the service and the affiliation to other providers, regardless of technology used to provide the service;
- (2) The extent to which services are available from alternative providers in the relevant market;
- (3) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions of service;
- (4) A comparison of the cost of extending and maintaining service compared to the revenue associated with such service; and
- (5) Customer preference, including the percentage of customers in the affected area that have chosen to obtain service from a different provider.

If the parties agree, the commission may order that the parties initiate and pursue a territory transfer for a particular customer or set of customers. The commission shall approve or deny any such petition within ninety days after the filing of the application. However, the commission may, by order, defer the period within which it must act for one additional period of ninety days, upon a finding that the proceeding cannot be completed within ninety days and that the additional time period is necessary for the commission to adequately and completely fulfill its duty. If the commission has not acted on any such petition within the time permitted, the petition shall be deemed granted.

For purposes of this section, the definition of price cap local exchange carrier at 47 C.F.R. § 61.3 as of January 1, 2021 is adopted.

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