

# MICROFILM DIVIDER

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*Doreen Ballarath*  
Operator's Signature

10/2/03  
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1135

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Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1135

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-14-03

Tape Number	Side A	Side B	Meter #
1	XX		27.4--end
1		XX	3.0--14.0
Committee Clerk Signature <i>Pam Owen</i>			

Minutes: **Chair Kelsner:** Let's take up HB 1135.

**Ilona Jeffcoat-Sacco, PSC:** In support. (SEE ATTACHED)

**Rep. N. Johnson:** Can you give us a for instance? I have no clue what might be, has happened.

**Ilona:** I would like to ask Tony Clark because he can better respond.

**Tony Clark, PSC Commissioner:** (31.7) In support. There are network elements that phone companies are required to lease to other phone companies. The types of network elements they are required to lease are defined in the federal act. The FCC is in the process of deciding what elements have to be offered and which do not. The FCC is thinking about creating a national minimum list that a company is required to provide in the network element. The FCC is trying to leave a flexibility to the state. We may have another state rule that may hamper the federal flexibility. (34.6) The term "greater" is of concern because it is somewhat subjective. One company's definition of what a greater obligation is may be different from another company's.

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**Rep. Ruby:** Are we required to under the federal provision on this? Are we allowed to have our own freedom?

**Tony Clark:** (35.5) If the FCC is intending for some state action, the FCC will say so. In some cases, the state commissions don't have authority to do certain things then the FCC takes over and makes the decision for them.

**Rep. Ruby:** When you talk about obligating one company as compared to another, is that more from state to state?

**Tony Clark:** It would be the case where it is two companies that are doing business in the state. If one was not involved in the state at all, we would not have regulatory authority over them. The testimony refers more to the notion that it's sometimes hard to determine when an obligation is greater or not. We can't supersede federal rule.

**Rep. Ekstrom:** (40.1) Is 211, which is Health and Human Services, the same system that the Mental Health Assoc. is using?

**Tony:** That is the one that the Mental Health Assoc. has been trying to get. That is the case that brought this issue to a head.

**Rep. Ekstrom:** Is there a possibility, in the future, that a commercial interest would get an N11 number?

**Tony:** They are starting to run out of them. Pretty tough for that to happen. The FCC has set out broad standards for each of these numbers. This will give control for all N11 numbers to PSC.

**Dan Kuntz, Q-West :** Opposed. We have some amendments to this bill. Phone companies are regulated by FCC and by the state within they operate. We are concerned when one entity tells you to do one thing and another entity tells you to do something else. We suggest an amendment

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to the last page. We want the commission's authority to include investigating resolved numbering issues relating to assignment of 911 dialing codes. We believe that fits with the authority the FCC is authorizing. (49.0)--explained the Telecom Act of 1996 and how it introduced competition.

**Rep. Kasper:** Before deregulation, was Q-West not a monopoly? Isn't that a true statement?

**Dan:** (4.0) Prior to 1996 the company had exclusive service areas. No competitors allowed in the local exchange market. There were competitors in the long distance market. Were they guaranteed returns? No. You are guaranteed reasonable prices that allow you the opportunity. The commission sets prices for all utility companies. If you are not able to sell what you projected to sell in your rate proceedings, you can't come back to the commission and say I did not make enough money. In ND, prior to 1996, telephone price (local) were price capped for essential services.

**Susan Wefald, PSC Commissioner:** I have a comment on the amendment. These are my own comments. I have a concern with section 16 of the amendment. (SEE ATTACHED)

**Rep. Ekstrom:** (7.0) Is there a half way point we can find? You are in conversation with the regulated community.

**Susan:** In rulemaking process, you have to have conversation with the parties involved. The commission has always been very responsible to listening, hearing, and acting on what we hear. You will find that we have some of the shortest rules of any state regulatory agency in the country. We get to the point. If you look at other states, you will see this. We are only asking for rulemaking authority on the sections that have already been defined by the legislature that the

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commission can take action on. (sect. 7 through 14). The commission came in thinking this was a compromise that we would be able to write rules that relate to those areas.

**Chairman Kelsner:** The federal legislation was enacted because telecommunication is an interstate phenomenon. They were trying to bring consistency. This bill is a move away from that. What problems have we encountered at PSC that would warrant moving away from national standards? What potential problems do you see if each state passes laws that make it unique and may have problems interstate?

**Susan:** (9.2) I can understand the committee's concern about that. PSC shares this. We wanted companies to be able to do business in many states and not have so many regional differences. Maybe we should take our "greater than". That might make the industry feel better.

**Dan Kuntz:** To clarify, existing law allows the PSC to enact rules to carry out the authority in sect. 7--14. Our concern is they should not go beyond the federal act. We don't want them to go beyond without any legislative guidelines or policy.

**Rep. Klein:** Looking at the last statement in the amendment, I really have a problem with that.

**Dan Kuntz:** Understand that this is authority right now that PSC doesn't have. We came up with this because we thought this is what PSC was concerned about. If there are areas outside of sect. 7--14 that are not covered in those subsections, then PSC to enter orders on. This would clear up their authority question. This imposes an obligation on the company. There are no other guidelines in terms of what would limit the PSC's ability to enter an order imposing an obligation on say Q-West that was not otherwise required to do under the act. That was out concern. **Hearing closed on HB 1135.**

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