

**278.543 Adoption of price regulation plan -- Rate caps and adjustments --
Jurisdiction of commission -- Exemptions -- Withdrawal from regulation
under KRS 278.541 to 278.544.**

Any telephone utility, at its discretion and without commission approval, may elect to adopt the price regulation plan set forth below.

- (1) An election under this section shall be effective immediately upon written notification from the electing utility to the commission. The election shall remain effective until withdrawn by the electing utility.
- (2) The rate for basic local exchange service for an electing utility, other than an electing small telephone utility as defined in KRS 278.516, shall be capped for a period of sixty (60) months from the date of the election. Subject to the limitations in KRS 278.541 to 278.544, an electing utility may seek a rate adjustment for basic local exchange services according to the terms of regulation applicable to the basic local exchange services of any ILEC on June 30, 2006, or a previously approved or new price regulation proposal for basic service pursuant to KRS 278.512. These rate adjustments may become effective on or after the day following the end of the sixty (60) months.
- (3) Electing utilities shall retain on file with the commission tariffs for basic local exchange services and intrastate switched-access services. Tariffs filed in accordance with subsection (2) of this section shall be deemed valid and binding upon the effective date stated in the tariff.
- (4) An electing utility's rates for intrastate switched-access service shall not exceed its rates for this service that were in effect on the day prior to the date the utility filed its notice of election.
- (5) The commission shall have original jurisdiction over complaints as to basic local exchange service of any electing telephone utility, except that the commission shall not have jurisdiction to set, investigate, or determine rates as to any electing telephone utility other than as set forth in this section. Upon a complaint in writing made against any electing telephone utility by any person stating that basic local exchange service in which that complainant is directly interested is unreasonable, unsafe, insufficient, or unjustly discriminatory, or that basic local exchange service is inadequate or cannot be obtained, the commission shall proceed, with or without notice, to make such investigation as it deems necessary or convenient. The commission may also make such an investigation on its own motion. No order concerning a complaint shall be entered by the commission without a formal public hearing. A person may intervene in accordance with commission administrative regulations. The commission shall fix the time and place for the hearing and shall provide notice to the electing telephone utility and the complainant not less than twenty (20) days in advance. The commission may dismiss any complaint without a hearing if it decides that a hearing is not necessary, in the public interest, or for the protection of substantial rights. The complainant and the electing telephone utility shall be entitled to be heard in person or by an attorney and to introduce evidence.
- (6) An electing utility's rates, charges, earnings, and revenues shall be deemed to be just and reasonable under KRS 278.030 and administrative regulations promulgated thereunder upon election. Except as set forth in KRS

278.542(1)(a) and (b), an electing telephone utility shall be exempt from KRS 278.190, 278.192, 278.200, 278.230(3), 278.255, 278.260, 278.270, 278.280, 278.290, and 278.300 and administrative regulations promulgated thereunder. The utility shall also be exempt from any rules, orders, or regulations of the commission requiring the retention or filing of financial reports, classifications, depreciation or other schedules, or any other information not required by the Federal Communications Commission.

- (7) An electing small telephone utility, as defined in KRS 278.516, may withdraw from being so regulated by providing written notice of withdrawal to the commission.
- (8) Under the following circumstances, any electing utility may withdraw from being so regulated by providing written notice to the commission:
 - (a) Upon the approval pursuant to KRS 278.512 of a company-specific alternative regulation plan; or
 - (b) Upon filing notice with the commission of its adoption of the applicable provisions of any alternative regulation plan previously approved by the commission. The adoption shall become effective upon filing of the notice.
- (9) The rates for basic local exchange service for an electing small telephone utility as defined in KRS 278.516 shall be capped for a period of twelve (12) months from the date of the election. Annually thereafter, an electing small telephone utility may not increase rates for an individual basic local exchange service by more than the increase in the annual average of the Consumer Price Index for all urban consumers for the most recent calendar year as published by the United States Department of Labor, Bureau of Labor Statistics.

Effective: July 12, 2006

History: Created 2006 Ky. Acts ch. 239, sec. 3, effective July 12, 2006.