

1 deployment project grants and the Broadband Deployment Council has
2 been established to initiate a grant program to distribute those
3 funds to worthy projects that demonstrate a process and technology
4 that is effective in rural West Virginia.

5 (2) Prior experience within the state has shown that projects
6 such as these may at times be at risk from defensive actions by
7 incumbent telecommunications companies. As a result, any funded
8 project may be subject to predatory pricing from incumbents who can
9 absorb the cost to reduce pricing in a local area until the
10 broadband deployment project can no longer compete.

11 (3) Once the competition has been eliminated, the incumbents
12 may substantially increase their charges for these services. In
13 order to avoid incumbents from creating artificial overlaps to void
14 grant applications by serving a few customers at a low performance
15 level to meet noncompetitive grant standards, regulation by the
16 Public Service Commission is required to reduce these risks and
17 enable the success of future projects selected by the Broadband
18 Deployment Council.

19 (b) It is the purpose and policy of the Legislature in
20 enacting this section to confer upon the Public Service Commission
21 the authority and duty to regulate the practices, services and
22 rates of broadband deployment projects as defined in article
23 fifteen-c, chapter thirty-one of this code, in order to:

24 (1) Ensure standard uniform broadband pricing for equal

1 service across the state that is just, reasonable, applied without
2 unjust discrimination or preference and based primarily on the
3 costs of providing these services;

4 (2) Establish a standard target level of availability,
5 performance and price for broadband service commensurate with
6 leading competitive performance in international and domestic
7 commerce, education and household needs;

8 (3) Ensure that a competitive standard may not be less than
9 ninety-five percent coverage of all consumers requesting service
10 and that there shall be availability of a minimum of five megabit
11 symmetric (up and down) for households and as much bandwidth as is
12 needed for all commercial, educational and institutional consumers;

13 (4) Ensure that charges for these services may not exceed \$10
14 for each megabit for households, \$50 for the first five megabits
15 for commercial, educational or institutional consumers and \$10 for
16 each megabit thereafter;

17 (5) Require county development authorities to identify areas
18 within each county that fail to meet this standard based on
19 consumer petition;

20 (6) Require incumbents to respond within sixty days of their
21 intentions of meeting this standard within one year; and

22 (7) Provide that if the incumbent fails to comply with this
23 requirement set out in this section, the incumbent shall quit all
24 claims for providing the standard service within the defined area.

NOTE: The purpose of this bill is to provide that the Public Service Commission has the authority and duty to regulate the practices, services and rates of broadband deployment projects.

This section is new; therefore, strike-throughs and underscoring have been omitted.