



Characterizing Competition: A Look at State Processes

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	Title, Statute/Bill	Deregulation Definition	Factors for determining competition	Basic Service/COLR requirement	Notes
CT	Commission decision, CT Statute Sec. 16-247f, http://search.gsa.state.ct.us/dtsearch_arch_public_statutes.html	Services in place before 2004 and services judged competitive based on commission investigation.	(1) The number, size and location of certified providers, provided the authority shall not reclassify any service as competitive if such service is available only from a telephone company or an affiliate of a telephone company that is a certified provider;(2) The availability of functionally equivalent services in the relevant market at competitive rates, terms and conditions, including, wireline, wireless, VoIP, and other alternative technologies;(3) barriers to entry (4) Other factors that may affect competition; and (5) Other factors that may affect the public interest.		

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DC	Commission, 2012 District of Columbia Code; Section 34-2002, http://law.justia.com/codes/district-of-columbia/2012/division-v/title-34/subtitle-v/chapter-20/section-34-2001.html	Local exchange carriers will be regulated according to each LEC's respective market power in the local exchange market, and in such manner as to prohibit abuse of monopoly power and facilitate adjustments in pricing as developing competition dictates a need for market flexibility.	ILEC must present a plan benefits of deregulation. (1) public interest;(2) network elements tariffed 3) offer fair, just, and reasonable (4) accounts for changes in technology; (5) specifies customer benefits; (6) maintains the quality and availability of telecommunications services;(7) includes safeguards to ensure that the BOC does not discriminate in favor of any t provider, including itself;(8) The plan safeguards against subsidies, (9) does not unreasonably prejudice or disadvantage any customer class or provider.		

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GA	Commission decision, HB1115; An Act to revise and update certain provisions relating to telecommunications, signed 5/1/12, effective 7/1/12, http://www1.legis.ga.gov/legis/2011_12/pdf/hb1115.pdf	Commission decision: (1) Totally deregulate a service; (2) Totally eliminate any tariffs on a service; (3) Eliminate tariff rates for a service but retain tariffs for service standards and requirements; or (4) Eliminate tariff rates for a service but require that notice of any rate changes be provided to the commission. Decision is based on availability of functionally equivalent or substitute services from competitive providers in the relevant geographic market. This finding must be made on the record after public hearing.	Competitive factors: (1) The extent to which competing services are available from competitive providers in the relevant geographic market; (2) availability of functionally equivalent services; (3) number and size of competitors;(4) impact of the decision on the continued availability of existing services at just and reasonable rates; (5) The impact of the change upon universal availability of basic telecommunications services at affordable rates and the ability of telecommunications companies subject to the jurisdiction of the commission to respond to competitive thrusts; and(6) Other public interest factors.		Any telecommunications service deregulated or de-tariffed under this Code section may be reregulated or re-subjected to tariffing by the commission if the commission finds, through a proceeding initiated on its own or upon application by an interested party, that such reregulation or re-tariffing is in the public interest.

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KY	Commission, Title XXIV §278.512, http://www.lrc.ky.gov/statutes/statute.aspx?id=14142	278.512(2) The Commission may exempt services or telecommunications products from rate regulation, or may adopt alternative requirements for establishing rates and charges for any service. Commission motion or co. request.	(a) Competitive service availability; (b) availability of functionally equivalent or substitute services; (c) number and size of competitive providers; (d) impact of deregulation on existing services at just and reasonable rates; (e) safeguards against subsidies; (f) impact on universal service; (g) ability for all to compete on a level playing field; (h) overall customer impact; (i) other public interest factors.	Requirement continues. 2012 legislation eliminating COLR failed.	
MN	Commission decision, MN Statute 237.76, https://www.revisor.mn.gov/statutes/?id=237.76	Carrier may petition for alternate regulation.	(1) The number, size, and identity of competitors providing the same or functionally equivalent service; (2) the geographic area in which competitive service is available to and being used by customers (3) the importance of the service to the public; and (4) the effect of classification of the service on the development of a competitive market.		AFOR must include fiber deployment and broadband for schools and libraries; The purpose of an alternative regulation plan is to provide customers with service quality consistent with commission rules at affordable rates, facilitate the development of alternatives for customers, and provide a regulatory environment with greater flexibility.

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MT	Commission decision, SB0246 amending Section 69-3-809 MCA, 4/21/11, http://leg.mt.gov/content/Publications/sales/2011-session-law-vol2.pdf	A provider may petition for alternative regulation.	The plan must demonstrate that it (a) will not degrade the quality of or the availability of efficient telecommunications services; (b) will produce fair, just, and reasonable rates for telecommunications services; (c) will not unduly or unreasonably prejudice or disadvantage a customer class; (d) will reduce regulatory delay and costs; (e) is in the public interest; (f) will enhance economic development in the state; (g) will result in the improvement of the telephone infrastructure in the state.		Tariff requirements continue.
NE	Commission Decision, Leg Bill 257, 3/16/11, amending § 86-143 and 86-144 of the Telecommunications Regulation Act, http://nebraskalegislature.gov/FloorDocs/Current/PDF/Slip/LB257.pdf	Except for requirements established by statute, the commission may limit, remove, or waive regulatory requirements for telecommunications companies when it determines that competition will serve the same purposes as public interest regulation.	Local competition shall be deemed to exist in an exchange if a telecommunications company files an application with the commission requesting a determination as to whether local competition exists in one or more exchanges specified in the application and the commission enters an order after public notice and a hearing which determines that local competition exists in such exchange or exchanges. The commission may consider wireless service when determining whether local competition exists.		The commission may, on its own motion at any time after a determination as to whether local competition exists, reexamine and re-determine the determination after notice and a hearing on the issue.

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OR	Commission decision - alternative suppliers, OR Statutes 759.050 and 759.052, https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors759.html	759.052 Commission authority to exempt telecommunications services from regulation. (1)(a) Upon petition by any interested party and following notice and investigation, the Public Utility Commission may exempt services from regulation.	The commission shall consider: (a) the extent to which services are available from alternative providers, (b) the extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates and under comparable terms and conditions, (c) existing economic or regulatory barriers to entry, (d) any other factors deemed relevant.		(4) A service that is deregulated may be reregulated, after notice and hearing, if the commission determines an essential finding on which the deregulation was based no longer prevails, and reregulation is necessary to protect the public interest. [2005 c.232 §8]; large ILECs operate under AFOR plan.
RI	Commission Decision, Verizon AFOR order, http://www.ripuc.org/utilityinfo/telecom/3692-VRI-Ord18550(3-17-06).pdf	Sufficient competition to restrain the ILEC from exercising market power, defined as the ability to profitably raise prices above the competitive level for a sustained period of time; market share is the chief tool for assessing the competitive nature of a market.	Alternate regulation plan based on competitive conditions and line loss to CLECs, VoIP, and wireless; definitions of relevant markets, products, and competitors.		VZ testimony: an unregulated competitive market maximizes consumer welfare and regulation exists to replicate, to the extent possible, the effects of a competitive market. As a result, less regulation is needed where competitive forces are sufficient to discipline firms to produce products and services customers want at reasonable prices. AFOR ruling allows commission to re-regulate if circumstances change.

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UT	Commission decision, UT Code, Section 454-8b, http://le.utah.gov/code/TITLE54/htm/54_08b000300.htm	454-8b-3(3) The commission may exempt a company or service from regulation if there is effective competition; and (b) the exemption is in the public interest.	Factors may include:(a) the extent to which competing telecommunications services are available from alternative providers; (b) the ability of alternative providers to offer competing services that are functionally equivalent or substitutable and reasonably available at comparable prices, terms, quality, and conditions; (c) the market share of the telecommunications corporation for which an exemption is proposed; (d) the extent of economic or regulatory barriers to entry; (e) the impact of potential competition; and (f) the type and degree of exemptions proposed.		
VA	Commission decision, HB2367; 3/28/11, http://lis.virginia.gov/cgi-bin/legp604.exe?111+ful+CHA P0738	The Commission may conclude that competition can effectively ensure reasonably adequate retail services in competitive exchanges and may carry out its duty to ensure that a public utility is furnishing reasonably adequate retail service in its competitive exchanges by monitoring individual customer complaints and requiring appropriate responses to such complaints.			The Commission shall have the authority upon request of an individual, corporation, or other entity, or a telephone company, to determine whether the wireline or terrestrial wireless communications service available to the party requesting service is a reasonably adequate alternative to local exchange telephone service.

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VT	Commission decision, Vermont Statutes § 227a. Pricing of competitive telecommunications services (1987), http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=30&Chapter=005&Section=00227a	If, after hearing, the board determines that a competitive market exists for the provision of any telecommunications service offered by a company subject to its jurisdiction, the board may suspend or reduce any or all of the regulatory requirements otherwise applicable to the provision of such service.			

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WA	Commission decision, multiple providers by competitive areas, State Statute, RCW 80.36.320, http://apps.leg.wa.gov/rcw/default.aspx?cite=80.36.320	The company's customers have reasonably available alternatives and the company does not have a significant captive customer base.	(a) Number and sizes of alternative providers; (b) Extent to which services are available from alternative providers in the relevant market; (c) Ability of alternative providers to make functionally equivalent or substitute services available at competitive rates, terms, and conditions; and (d) Other indicators of market power -- market share, growth in market share, ease of entry, affiliation of service providers.	Frontier settlement agreement defining it as a competitive carrier maintains Frontier's requirements as COLR and ETC, thereby providing assurance that these services would remain available to customers throughout Frontier area. Lifeline protected by exempting beneficiaries from any price increases the Company initiates as a result of the pricing flexibility the Commission grants. Docket UT-121994	Competitive telecommunications companies shall be subject to minimal regulation. The commission may waive any regulatory requirement for competitive telecommunications companies when it determines that competition will serve the same purposes as public interest regulation. The commission may waive different regulatory requirements for different companies if such different treatment is in the public interest. The commission may revoke any waivers it grants and may reclassify any competitive telecommunications company if the revocation or reclassification would protect the public interest.

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WV	Commission decision, WV Code §24-2-3c. Cessation of jurisdiction over rates for certain services subject to competition, http://www.legis.state.wv.us/wvc/ChapterEntire.cfm?chap=24	Rates are deregulated on carrier petition.	Evidence of ease of market entry, the presence of other competitors and the availability of like or substitute services shall be sufficient to show that a commodity or service is subject to workable competition.		