

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 1468  
Committee Substitute Favorable 5/18/05**

Short Title: Telecommunication Service Providers.

(Public)

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Sponsors:

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Referred to:

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April 21, 2005

A BILL TO BE ENTITLED

1  
2 AN ACT AUTHORIZING THE NORTH CAROLINA UTILITIES COMMISSION TO  
3 DETERMINE CERTAIN TELECOMMUNICATION SERVICE PROVIDERS TO  
4 BE THE UNIVERSAL SERVICE PROVIDER IN CERTAIN SUBDIVISIONS  
5 AND AREAS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 62-110(f1) reads as rewritten:

8 "(f1) Except as provided in subsection (f2) of this section, the Commission is  
9 authorized, following notice and an opportunity for interested parties to be heard, to  
10 issue a certificate to any person applying to provide local exchange or exchange access  
11 services as a public utility as defined in G.S. 62-3(23) a.6., without regard to whether  
12 local telephone service is already being provided in the territory for which the certificate  
13 is sought, provided that the person seeking to provide the service makes a satisfactory  
14 showing to the Commission that (i) the person is fit, capable, and financially able to  
15 render such service; (ii) the service to be provided will reasonably meet the service  
16 standards that the Commission may adopt; (iii) the provision of the service will not  
17 adversely impact the availability of reasonably affordable local exchange service; (iv)  
18 the person, to the extent it may be required to do so by the Commission, will participate  
19 in the support of universally available telephone service at affordable rates; and (v) the  
20 provision of the service does not otherwise adversely impact the public interest. In its  
21 application for certification, the person seeking to provide the service shall set forth  
22 with particularity the proposed geographic territory to be served and the types of local  
23 exchange and exchange access services to be provided. Except as provided in  
24 G.S. 62-133.5(f), any person receiving a certificate under this section shall, until  
25 otherwise determined by the Commission, file and maintain with the Commission a  
26 complete list of the local exchange and exchange access services to be provided and the  
27 prices charged for those services, and shall be subject to such reporting requirements as  
28 the Commission may require.

1 Any certificate issued by the Commission pursuant to this subsection shall not  
2 permit the provision of local exchange or exchange access service until July 1, 1996,  
3 unless the Commission shall have approved a price regulation plan pursuant to  
4 G.S. 62-133.5(a) for a local exchange company with an effective date prior to July 1,  
5 1996. In the event a price regulation plan becomes effective prior to July 1, 1996, the  
6 Commission is authorized to permit the provision of local exchange or exchange access  
7 service by a competing local provider in the franchised area of such local exchange  
8 company.

9 The Commission is authorized to adopt rules it finds necessary (i) to provide for the  
10 reasonable interconnection of facilities between all providers of telecommunications  
11 services; (ii) to determine when necessary the rates for such interconnection; (iii) to  
12 provide for the reasonable unbundling of essential facilities where technically and  
13 economically feasible; (iv) to provide for the transfer of telephone numbers between  
14 providers in a manner that is technically and economically reasonable; (v) to provide for  
15 the continued development and encouragement of universally available telephone  
16 service at reasonably affordable rates; and (vi) to carry out the provisions of this  
17 subsection in a manner consistent with the public interest, which will include a  
18 consideration of whether and to what extent resale should be permitted. In adopting  
19 rules to establish an appropriate definition of universal service, the Commission shall  
20 consider evolving trends in telecommunications services and the need for consumers to  
21 have access to high-speed communications networks, the Internet, and other services to  
22 the extent that those services provide social benefits to the public at a reasonable cost.

23 Local exchange companies and competing local providers shall negotiate the rates  
24 for local interconnection. In the event that the parties are unable to agree within 90 days  
25 of a bona fide request for interconnection on appropriate rates for interconnection, either  
26 party may petition the Commission for determination of the appropriate rates for  
27 interconnection. The Commission shall determine the appropriate rates for  
28 interconnection within 180 days from the filing of the petition.

29 ~~Each~~ Except as provided in subsections (f4) and (f5) of this section, each local  
30 exchange company shall be the universal service provider (carrier of last resort) in the  
31 area in which it is certificated to operate on July 1, 1995, ~~until otherwise determined by~~  
32 ~~the Commission, 1995.~~ In continuing this State's commitment to universal service, the  
33 Commission shall, by December 31, 1996, adopt interim rules that designate the person  
34 that should be the universal service provider and to determine whether universal service  
35 should be funded through interconnection rates or through some other funding  
36 mechanism. At a time determined by the Commission to be in the public interest, the  
37 Commission shall conduct an investigation for the purpose of adopting final rules  
38 concerning the provision of universal services, ~~the person that should be the universal~~  
39 ~~service provider, services,~~ and whether universal service should be funded through  
40 interconnection rates or through some other funding mechanism.

41 The Commission shall make the determination required pursuant to this subsection  
42 in a manner that furthers this State's policy favoring universally available telephone  
43 service at reasonable rates."

1           **SECTION 2.** G.S. 62-110 is amended by adding two new subsections to  
2 read:

3       "(f4) When any telecommunication service provider enters into an agreement to  
4 provide local exchange service for a subdivision or other area where access to  
5 right-of-way for the provision of local exchange service by other telecommunication  
6 service providers has not been granted by the property owner, the telecommunication  
7 service provider shall be the universal service provider (carrier of last resort) in the  
8 subdivision or other area. If the local exchange company for the franchise area or  
9 territory in which the subdivision or other area is located is not a party to the agreement,  
10 the local exchange company shall be relieved of any universal service provider  
11 obligation for that subdivision or other area. In that case, the local exchange company  
12 and all other authorized telecommunication service providers shall retain the option, but  
13 not the obligation, to serve customers in such a subdivision or other area. Upon  
14 notification by the local exchange company that it no longer wishes to be the universal  
15 service provider for a subdivision or other area as provided in this section, the  
16 Commission shall take necessary steps to reflect that the local exchange company is no  
17 longer the universal service provider for the subdivision or other area identified to the  
18 Commission. For a local exchange company that qualifies as a rural local exchange  
19 company under the Federal Telecommunications Act of 1996, the Commission, or other  
20 appropriate State agency, after notification from the rural local exchange company, shall  
21 take necessary steps to reflect that the rural local exchange company is no longer the  
22 universal service provider for the subdivision or other area identified to the Commission  
23 and shall amend the service area or study area of the rural local exchange company and  
24 notify the Federal Communications Commission of such amendment.

25       (f5) If the Commission finds that the telecommunications service provider that  
26 entered into the agreement is no longer willing or able to fulfill its obligations as  
27 universal service provider for the subdivision or other area, the Commission shall  
28 redesignate the local exchange company for the franchise area or territory in which the  
29 subdivision or other area is located to be the universal service provider for the area. The  
30 costs reasonably incurred by the redesignated universal service provider in extending its  
31 facilities into the subdivision or other area shall, subject to Commission approval, be  
32 permitted in the form of a surcharge to be spread equitably among all of its customers  
33 without having to file a general rate case, and if the designated universal service  
34 provider is subject to price regulation or alternative regulation under G.S. 62-133.5, it  
35 may treat these costs as exogenous to such form of regulation and it may adjust its rates  
36 so as to recover these costs from its customers whose rates are subject to regulation."

37           **SECTION 3.** This act is effective when it becomes law.