

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1180
Committee Substitute Favorable 5/7/09

Short Title: Consumer Choice and Investment Act of 2009.

(Public)

Sponsors:

Referred to:

April 8, 2009

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING THE CONSUMER CHOICE AND INVESTMENT ACT OF
3 2009.

4 Whereas, the technology used to provide communications services has evolved and
5 continues to evolve at an ever-increasing pace; and

6 Whereas, the resulting competition between traditional telephone service providers,
7 cable companies offering communications services, voice-over Internet protocol (VoIP)
8 providers, wireless communications service providers, and other communications service
9 providers promotes and continues to promote additional consumer choices for these services;
10 and

11 Whereas, traditional telephone service providers remain subject to certain antiquated
12 statutory and regulatory restrictions that do not apply to other communications service
13 providers; and

14 Whereas, this disparity may deprive consumers of traditional telephone companies
15 of the full range of timely and competitive options and offerings that otherwise would be
16 available to them; and

17 Whereas, the General Assembly finds that relaxing certain restrictions for traditional
18 telephone companies will relieve consumers of unnecessary costs and burdens, encourage
19 investment, and promote timely deployment of more innovative offerings at more competitive
20 prices for customers; and

21 Whereas, in order to make the full range of competitive options and offerings
22 available to consumers of communications services while maintaining inflation-based price
23 controls for those existing customers who currently receive and wish to continue receiving only
24 stand-alone basic residential lines from traditional telephone companies, the General Assembly
25 hereby enacts the "Consumer Choice and Investment Act of 2009"; Now, therefore,
26 The General Assembly of North Carolina enacts:

27 **SECTION 1.** G.S. 62-133.5 is amended by adding a new subsection to read:

28 "(h) Notwithstanding any other provision of this Chapter, upon the effective date of this
29 subsection, a local exchange company that is subject to rate of return regulation or subject to
30 another form of regulation authorized under this section may elect to have its rates, terms, and
31 conditions for its services determined pursuant to the plan described in this subsection by filing
32 notice of its intent to do so with the Commission, which election shall become effective
33 immediately upon filing. This subsection shall only apply to a local exchange company for a
34 franchise area or territory in which not less than ninety percent (90%) of the households in each
35 local exchange have some combination of reliable wireless service and/or broadband service
36 where the download speed is at least 1.5Mbps and the upload speed is at least 384Kbps.

37 (1) Definitions. – The following definitions apply in this subsection:



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- 1 a. Local exchange company. – The same meaning as provided in
2 G.S. 62-3(16a).
- 3 b. Preelection date. – The date immediately before the effective date of
4 the local exchange company's election under this subsection.
- 5 c. Single-line basic residential service. – Single-line residential flat rate
6 basic voice grade local service with touch tone within a traditional
7 local calling area that provides access to available emergency
8 services and directory assistance, the capability to access
9 interconnecting carriers, relay services, access to operator services,
10 and one annual local directory listing (white pages or the equivalent).
- 11 d. Stand-alone basic residential line. – Single-line basic residential
12 service that is billed on a billing account that does not also contain
13 another service, feature, or product that is sold by the local exchange
14 company or an affiliate of the local exchange company and is billed
15 on a recurring basis on the local exchange company's bill.
- 16 (2) Beginning on the date that the local exchange company's election under this
17 subsection becomes effective, stand-alone basic residential lines that were in
18 service on the preelection date will remain in service at the customer's
19 discretion and the local exchange company may increase rates for those lines
20 annually by a percentage that does not exceed the percentage increase over
21 the prior year in the Gross Domestic Product Price Index as reported by the
22 United States Department of Labor, Bureau of Labor Statistics, unless
23 otherwise authorized by the Commission. With the sole exception of
24 ensuring the local exchange company's compliance with the preceding
25 sentence, the Commission shall not:
- 26 a. Impose any requirements related to the terms, conditions, rates, or
27 availability of any of the local exchange company's stand-alone basic
28 residential lines that were in service on the preelection date.
- 29 b. Otherwise regulate any of the local exchange company's stand-alone
30 basic residential lines that were in service on the preelection date.
- 31 (3) Except to the extent provided in subdivision (2) of this subsection, beginning
32 on the date the local exchange company's election under this subsection
33 becomes effective, the Commission shall not do either of the following:
- 34 a. Impose any requirements related to the terms, conditions, rates, or
35 availability of any of the local exchange company's retail services.
- 36 b. Otherwise regulate any of the local exchange company's retail
37 services including, without limitation, any stand-alone basic
38 residential lines put into service after the preelection date.
- 39 (4) A local exchange company's election under this subsection does not affect
40 the obligations of an incumbent local exchange carrier, as that term is
41 defined by section 251 (h) of the Federal Telecommunications Act of 1996
42 (Act), under sections 251 and 252 of the Act or any Federal
43 Communications Commission regulation relating to sections 251 and 252 of
44 the Act, nor does it affect any authority of the Commission to act in
45 accordance with federal or State laws or regulations including, without
46 limitation, jurisdiction granted to set rates, terms, and conditions for access
47 to unbundled network elements and to arbitrate and enforce interconnection
48 agreements.
- 49 (5) A local exchange company's election under this subsection does not affect
50 the Commission's jurisdiction to enforce federal requirements on the local
51 exchange company's marketing activities. However, the Commission may

1 not adopt, impose, or enforce other requirements on the local exchange
2 company's marketing activities.

3 (6) A local exchange company's election, pursuant to the provisions of this
4 subsection, does not affect the Commission's jurisdiction concerning the
5 telecommunications relay service pursuant to G.S. 62-157.

6 (7) A local exchange company's election, pursuant to the provisions of this
7 subsection, does not affect the Commission's jurisdiction concerning the Life
8 Line or Link Up programs consistent with Federal Communications
9 Commission rules, including, but not limited to, 47 C.F.R. § 54.403(a)(3), as
10 amended from time to time, and relevant orders of the North Carolina
11 Utilities Commission issued as of January 1, 2009.

12 (8) A local exchange company's election, pursuant to the provisions of this
13 subsection, does not affect the Commission's jurisdiction concerning
14 universal service funding pursuant to G.S. 62-110(f1).

15 (9) A local exchange company's election, pursuant to the provisions of this
16 subsection, does not affect the Commission's jurisdiction concerning carrier
17 of last resort obligations pursuant to G.S. 62-110.

18 (10) A local exchange company's election, pursuant to the provisions of this
19 subsection, does not prevent a consumer from seeking the assistance of the
20 Public Staff of the North Carolina Utilities Commission to resolve a
21 complaint with that local exchange company, as provided in G.S. 62-73.1."

22 **SECTION 2.** G.S. 62-133.5 is amended by adding a new subsection to read:

23 "(i) To the extent applicable, a competing local provider authorized by the Commission
24 to do business under the provisions of G.S. 62-110(f1) may also elect to have its rates, terms,
25 and conditions for its services determined pursuant to the plan described in subsection (h) of
26 this section."

27 **SECTION 3.** G.S. 62-133.5 is amended by adding a new subsection to read:

28 "(j) Notwithstanding any other provision of this Chapter, the Commission has
29 jurisdiction over matters concerning switched access and intercarrier compensation of a local
30 exchange company that has elected to operate under price regulation."

31 **SECTION 4.** G.S. 62-133.5 is amended by adding a new subsection to read:

32 "(k) To evaluate the affordability and quality of local exchange service provided to
33 consumers in this State, a local exchange company or competing local provider that elects to
34 have its rates, terms, and conditions for its services determined pursuant to the plan described
35 in subsection (h) of this section shall make an annual report to the General Assembly on the
36 state of its company's operations. The report shall be due 30 days after the close of each
37 calendar year and shall cover the period from January 1 through December 31 of the preceding
38 year. The report shall include the following:

39 (1) An analysis of telecommunications competition by the local exchange
40 company or competing local provider, including access line gain or loss and
41 the impact on consumer choices from enactment of the Consumer Choice
42 and Investment Act of 2009.

43 (2) An analysis of service quality based on customer satisfaction studies from
44 enactment of the Consumer Choice and Investment Act of 2009.

45 (3) An analysis of the level of local exchange rates from enactment of the
46 Consumer Choice and Investment Act of 2009."

47 **SECTION 5.** Article 4 of Chapter 62 of the General Statutes is amended by adding
48 a new section to read:

49 **"§ 62-73.1. Complaints against providers of telephone services.**

50 Any provider of telephone services, upon receiving a consumer complaint, shall resolve the
51 complaint or shall (i) provide notice to the consumer of the consumer's right to contact the

1 Public Staff of the Commission and (ii) provide to the consumer, in writing, contact
2 information for the Public Staff including both a toll-free telephone number and an electronic
3 mail address. The Public Staff shall keep a record of all complaints received pertaining to the
4 provider, including the nature of each complaint and the resolution thereof. If the Public Staff
5 determines that it cannot reasonably resolve the matter, the matter shall be referred to the
6 Commission. The standard for review by both the Public Staff and the Commission shall be
7 whether the action or inaction of the provider is reasonable and appropriate. This section shall
8 apply to all providers of telephone services, including Voice over Internet Protocol, wireless, or
9 any other form of telephonic communication in a deregulated telephone exchange."

10 **SECTION 6.** This act is effective when it becomes law and shall expire on June
11 30, 2011.