

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1180
Committee Substitute Favorable 5/7/09
Committee Substitute #2 Favorable 5/12/09
Senate Commerce Committee Substitute Adopted 6/1/09

Short Title: Consumer Choice and Investment Act of 2009.

(Public)

Sponsors:

Referred to:

April 8, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING THE CONSUMER CHOICE AND INVESTMENT ACT OF 2009.

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

Whereas, the resulting competition between traditional telephone service providers, cable companies offering communications services, Voice-over Internet Protocol (VoIP) providers, wireless communications service providers, and other communications service providers promotes and continues to promote additional consumer choices for these services; and

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

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

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

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

The General Assembly of North Carolina enacts:

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

"(h) Notwithstanding any other provision of this Chapter, a local exchange company that is subject to rate of return regulation or subject to another form of regulation authorized under this section and whose territory is open to competition from competing local providers may elect to have its rates, terms, and conditions for its services determined pursuant to the plan described in this subsection by filing notice of its intent to do so with the Commission, which election shall become effective immediately upon filing. A local exchange company shall not be permitted to make the election under this section unless it commits to provide stand-alone



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1 basic residential lines to rural customers at rates comparable to those rates charged to urban
2 customers for the same service.

- 3 (1) Definitions. – The following definitions apply in this subsection:
- 4 a. Local exchange company. – The same meaning as provided in
5 G.S. 62-3(16a).
- 6 b. Single-line basic residential service. – Single-line residential flat rate
7 basic voice grade local service with touch tone within a traditional
8 local calling area that provides access to available emergency
9 services and directory assistance, the capability to access
10 interconnecting carriers, relay services, access to operator services,
11 and one annual local directory listing (white pages or the equivalent).
- 12 c. Stand-alone basic residential line. – Single-line basic residential
13 service that is billed on a billing account that does not also contain
14 another service, feature, or product that is sold by the local exchange
15 company or an affiliate of the local exchange company and is billed
16 on a recurring basis on the local exchange company's bill.
- 17 (2) Beginning on the date that the local exchange company's election under this
18 subsection becomes effective, the local exchange company shall continue to
19 offer stand-alone basic residential lines to all customers who choose to
20 subscribe to that service, and the local exchange company may increase rates
21 for those lines annually by a percentage that does not exceed the percentage
22 increase over the prior year in the Gross Domestic Product Price Index as
23 reported by the United States Department of Labor, Bureau of Labor
24 Statistics, unless otherwise authorized by the Commission. With the sole
25 exception of ensuring the local exchange company's compliance with the
26 preceding sentence, the Commission shall not:
- 27 a. Impose any requirements related to the terms, conditions, rates, or
28 availability of any of the local exchange company's stand-alone basic
29 residential lines.
- 30 b. Otherwise regulate any of the local exchange company's stand-alone
31 basic residential lines.
- 32 (3) Except to the extent provided in subdivision (2) of this subsection, beginning
33 on the date the local exchange company's election under this subsection
34 becomes effective, the Commission shall not do either of the following:
- 35 a. Impose any requirements related to the terms, conditions, rates, or
36 availability of any of the local exchange company's retail services.
- 37 b. Otherwise regulate any of the local exchange company's retail
38 services.
- 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 prevent
50 a consumer from seeking the assistance of the Public Staff of the North

1 Carolina Utilities Commission to resolve a complaint with that local
2 exchange company, as provided in G.S. 62-73.1.

3 (6) A local exchange company's election under this subsection does not affect
4 the Commission's jurisdiction concerning the following:

5 a. Enforce federal requirements on the local exchange company's
6 marketing activities. However, the Commission may not adopt,
7 impose, or enforce other requirements on the local exchange
8 company's marketing activities.

9 b. The telecommunications relay service pursuant to G.S. 62-157.

10 c. The Life Line or Link Up programs consistent with Federal
11 Communications Commission rules, including, but not limited to, 47
12 C.F.R. § 54.403(a)(3), as amended from time to time, and relevant
13 orders of the North Carolina Utilities Commission.

14 d. Universal service funding pursuant to G.S. 62-110(f1).

15 e. Carrier of last resort obligations pursuant to G.S. 62-110.

16 f. The authority delegated to it by the Federal Communications
17 Commission to manage the numbering resources involving that local
18 exchange company."

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

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

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

25 "(j) Notwithstanding any other provision of this Chapter, the Commission has
26 jurisdiction over matters concerning switched access and intercarrier compensation of a local
27 exchange company that has elected to operate under price regulation, as well as a local
28 exchange carrier or competing local provider operating under any form of regulation covered
29 under this Article or G.S. 62-110(f1)."

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

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

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

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

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

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

51 **§ 62-73.1. Complaints against providers of telephone services.**

1 (a) A local exchange company or competing local provider that is unable to resolve a
2 customer complaint shall (i) provide notice to the consumer of the consumer's right to contact
3 the Public Staff of the Commission and (ii) provide to the consumer, in writing, contact
4 information for the Public Staff, including both a toll-free telephone number and an electronic
5 mail address.

6 (b) The Public Staff shall keep a record of all complaints received pertaining to the
7 provider, including the nature of each complaint and the resolution thereof. If the Public Staff
8 determines that it cannot reasonably resolve the matter, the matter shall be referred to the
9 Commission. The standard for review by both the Public Staff and the Commission shall be
10 whether the action or inaction of the provider is reasonable and appropriate."

11 **SECTION 6.** G.S. 62-302(b)(4) reads as rewritten:

12 (b) Public Utility Rate. –

13 ...

14 (4) As used in this section, the term "North Carolina jurisdictional revenues"
15 ~~means means:~~

16 a. ~~all~~ All revenues derived or realized from intrastate tariffs, rates, and
17 charges approved or allowed by the Commission or collected
18 pursuant to Commission order or rule, but not including tap-on fees
19 or any other form of contributions in aid of construction.

20 b. All revenues derived from retail services no longer otherwise
21 regulated by the operation of G.S. 62-133.5(h) for a local exchange
22 company or competing local provider that has elected to be regulated
23 under that subsection."

24 **SECTION 7.** This act is effective when it becomes law.