

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1180
Committee Substitute Favorable 5/7/09
PROPOSED COMMITTEE SUBSTITUTE H1180-PCS70430-TD-38

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. A local exchange company shall not be permitted to make the election



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1 under this section unless it commits to provide stand-alone basic residential lines to rural
2 customers at rates comparable to those rates charged to urban 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 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.

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, as well as a local
31 exchange carrier or competing local provider operating under any form of regulation covered
32 under this Article or G.S. 62-110(f1)."

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

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

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

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

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

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

3 **"§ 62-73.1. Complaints against providers of telephone services.**

4 Any local exchange company or competing local provider, upon receiving a consumer
5 complaint, shall resolve the complaint or shall (i) provide notice to the consumer of the
6 consumer's right to contact the Public Staff of the Commission and (ii) provide to the
7 consumer, in writing, contact information for the Public Staff including both a toll-free
8 telephone number and an electronic mail address. The Public Staff shall keep a record of all
9 complaints received pertaining to the provider, including the nature of each complaint and the
10 resolution thereof. If the Public Staff determines that it cannot reasonably resolve the matter,
11 the matter shall be referred to the Commission. The standard for review by both the Public
12 Staff and the Commission shall be whether the action or inaction of the provider is reasonable
13 and appropriate."

14 **SECTION 6.** This act is effective when it becomes law.