

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
PROPOSED SENATE COMMITTEE SUBSTITUTE H1180-PCS80453-TD-41

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, a local exchange company that
29 is subject to rate of return regulation or subject to another form of regulation authorized under
30 this section and whose territory is open to competition from competing local providers may
31 elect to have its rates, terms, and conditions for its services determined pursuant to the plan
32 described in this subsection by filing notice of its intent to do so with the Commission, which



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1 election shall become effective immediately upon filing. A local exchange company shall not
2 be permitted to make the election under this section unless it commits to provide stand-alone
3 basic residential lines to rural customers at rates comparable to those rates charged to urban
4 customers for the same service.

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

6 a. Local exchange company. – The same meaning as provided in
7 G.S. 62-3(16a).

8 b. Single-line basic residential service. – Single-line residential flat rate
9 basic voice grade local service with touch tone within a traditional
10 local calling area that provides access to available emergency
11 services and directory assistance, the capability to access
12 interconnecting carriers, relay services, access to operator services,
13 and one annual local directory listing (white pages or the equivalent).

14 c. Stand-alone basic residential line. – Single-line basic residential
15 service that is billed on a billing account that does not also contain
16 another service, feature, or product that is sold by the local exchange
17 company or an affiliate of the local exchange company and is billed
18 on a recurring basis on the local exchange company's bill.

19 (2) Beginning on the date that the local exchange company's election under this
20 subsection becomes effective, the local exchange company shall continue to
21 offer stand-alone basic residential lines to all customers who choose to
22 subscribe to that service, and the local exchange company may increase rates
23 for those lines annually by a percentage that does not exceed the percentage
24 increase over the prior year in the Gross Domestic Product Price Index as
25 reported by the United States Department of Labor, Bureau of Labor
26 Statistics, unless otherwise authorized by the Commission. With the sole
27 exception of ensuring the local exchange company's compliance with the
28 preceding sentence, the Commission shall not:

29 a. Impose any requirements related to the terms, conditions, rates, or
30 availability of any of the local exchange company's stand-alone basic
31 residential lines.

32 b. Otherwise regulate any of the local exchange company's stand-alone
33 basic residential lines.

34 (3) Except to the extent provided in subdivision (2) of this subsection, beginning
35 on the date the local exchange company's election under this subsection
36 becomes effective, the Commission shall not do either of the following:

37 a. Impose any requirements related to the terms, conditions, rates, or
38 availability of any of the local exchange company's retail services.

39 b. Otherwise regulate any of the local exchange company's retail
40 services.

41 (4) A local exchange company's election under this subsection does not affect
42 the obligations of an incumbent local exchange carrier, as that term is
43 defined by section 251(h) of the Federal Telecommunications Act of 1996
44 (Act), under sections 251 and 252 of the Act or any Federal
45 Communications Commission regulation relating to sections 251 and 252 of
46 the Act, nor does it affect any authority of the Commission to act in
47 accordance with federal or State laws or regulations including, without
48 limitation, jurisdiction granted to set rates, terms, and conditions for access
49 to unbundled network elements and to arbitrate and enforce interconnection
50 agreements.

1 (5) A local exchange company's election under this subsection does not prevent
2 a consumer from seeking the assistance of the Public Staff of the North
3 Carolina Utilities Commission to resolve a complaint with that local
4 exchange company, as provided in G.S. 62-73.1.

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

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

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

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

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

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

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

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

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

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

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

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

33 "(k) To evaluate the affordability and quality of local exchange service provided to
34 consumers in this State, a local exchange company or competing local provider offering basic
35 local residential exchange service that elects to have its rates, terms, and conditions for its
36 services determined pursuant to the plan described in subsection (h) of this section shall make
37 an annual report to the General Assembly on the state of its company's operations. The report
38 shall be due 30 days after the close of each calendar year and shall cover the period from
39 January 1 through December 31 of the preceding year. The Joint Legislative Utility Review
40 Committee must review the annual reports and decide whether to recommend that the General
41 Assembly take corrective action in response to those reports. The report shall include the
42 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 (a) A local exchange company or competing local provider that is unable to resolve a
5 customer complaint shall (i) provide notice to the consumer of the consumer's right to contact
6 the Public Staff of the Commission and (ii) provide to the consumer, in writing, contact
7 information for the Public Staff, including both a toll-free telephone number and an electronic
8 mail address.

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

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

15 "(b) Public Utility Rate. –

16 ...

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

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

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

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