

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

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
34 under this section unless it commits to provide stand-alone basic residential lines to rural
35 customers at rates comparable to those rates charged to urban customers for the same service.

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

- 1 (6) A local exchange company's election, pursuant to the provisions of this
2 subsection, does not affect the Commission's jurisdiction concerning the
3 telecommunications relay service pursuant to G.S. 62-157.
- 4 (7) A local exchange company's election, pursuant to the provisions of this
5 subsection, does not affect the Commission's jurisdiction concerning the Life
6 Line or Link Up programs consistent with Federal Communications
7 Commission rules, including, but not limited to, 47 C.F.R. § 54.403(a)(3), as
8 amended from time to time, and relevant orders of the North Carolina
9 Utilities Commission.
- 10 (8) A local exchange company's election, pursuant to the provisions of this
11 subsection, does not affect the Commission's jurisdiction concerning
12 universal service funding pursuant to G.S. 62-110(f1).
- 13 (9) A local exchange company's election, pursuant to the provisions of this
14 subsection, does not affect the Commission's jurisdiction concerning carrier
15 of last resort obligations pursuant to G.S. 62-110.
- 16 (10) A local exchange company's election, pursuant to the provisions of this
17 subsection, does not prevent a consumer from seeking the assistance of the
18 Public Staff of the North Carolina Utilities Commission to resolve a
19 complaint with that local exchange company, as provided in G.S. 62-73.1."

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

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

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

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

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 Joint Utility Legislative Review Committee must review the annual reports and
39 decide whether to recommend that the General Assembly take corrective action in response to
40 those reports. The report shall include the 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 Any local exchange company or competing local provider, upon receiving a consumer
2 complaint, shall resolve the complaint or shall (i) provide notice to the consumer of the
3 consumer's right to contact the Public Staff of the Commission and (ii) provide to the
4 consumer, in writing, contact information for the Public Staff including both a toll-free
5 telephone number and an electronic mail address. The Public Staff shall keep a record of all
6 complaints received pertaining to the provider, including the nature of each complaint and the
7 resolution thereof. If the Public Staff determines that it cannot reasonably resolve the matter,
8 the matter shall be referred to the Commission. The standard for review by both the Public
9 Staff and the Commission shall be whether the action or inaction of the provider is reasonable
10 and appropriate."

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