

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

H

D

**HOUSE BILL 1180
PROPOSED COMMITTEE SUBSTITUTE H1180-PCS50669-RV-24**

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, upon the effective date of this subsection, a local exchange company that is subject to rate of return regulation or subject to another form of regulation authorized under this section 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. This subsection shall only apply to a local exchange company for a franchise area or territory in which not less than ninety percent (90%) of the households in each



* H 1 1 8 0 - P C S 5 0 6 6 9 - R V - 2 4 *

1 local exchange have some combination of reliable wireless service and/or broadband service
2 where the download speed is at least 1.5Mbps and the upload speed is at least 384Kbps.

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. Preelection date. – The date immediately before the effective date of
7 the local exchange company's election under this subsection.

8 c. 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 d. 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, stand-alone basic residential lines that were in
21 service on the preelection date will remain in service at the customer's
22 discretion and the local exchange company may increase rates for those lines
23 annually by a percentage that does not exceed the percentage increase over
24 the prior year in the Gross Domestic Product Price Index as reported by the
25 United States Department of Labor, Bureau of Labor Statistics, unless
26 otherwise authorized by the Commission. With the sole exception of
27 ensuring the local exchange company's compliance with the preceding
28 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 that were in service on the preelection date.

32 b. Otherwise regulate any of the local exchange company's stand-alone
33 basic residential lines that were in service on the preelection date.

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 including, without limitation, any stand-alone basic
41 residential lines put into service after the preelection date.

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

- 1 (5) A local exchange company's election under this subsection does not affect
2 the Commission's jurisdiction to enforce federal requirements on the local
3 exchange company's marketing activities. However, the Commission may
4 not adopt, impose, or enforce other requirements on the local exchange
5 company's marketing activities.
- 6 (6) A local exchange company's election, pursuant to the provisions of this
7 subsection, does not affect the Commission's jurisdiction concerning the
8 telecommunications relay service pursuant to G.S. 62-157.
- 9 (7) A local exchange company's election, pursuant to the provisions of this
10 subsection, does not affect the Commission's jurisdiction concerning the Life
11 Line or Link Up programs consistent with Federal Communications
12 Commission rules, including, but not limited to, 47 C.F.R. § 54.403(a)(3), as
13 amended from time to time, and relevant orders of the North Carolina
14 Utilities Commission issued as of January 1, 2009.
- 15 (8) A local exchange company's election, pursuant to the provisions of this
16 subsection, does not affect the Commission's jurisdiction concerning
17 universal service funding pursuant to G.S. 62-110(f1).
- 18 (9) A local exchange company's election, pursuant to the provisions of this
19 subsection, does not affect the Commission's jurisdiction concerning carrier
20 of last resort obligations pursuant to G.S. 62-110.
- 21 (10) A local exchange company's election, pursuant to the provisions of this
22 subsection, does not prevent a consumer from seeking the assistance of the
23 Public Staff of the North Carolina Utilities Commission to resolve a
24 complaint with that local exchange company, as provided in G.S. 62-73.1."

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

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

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

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

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

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

- 42 (1) An analysis of telecommunications competition by the local exchange
43 company or competing local provider, including access line gain or loss and
44 the impact on consumer choices from enactment of the Consumer Choice
45 and Investment Act of 2009.
- 46 (2) An analysis of service quality based on customer satisfaction studies from
47 enactment of the Consumer Choice and Investment Act of 2009.
- 48 (3) An analysis of the level of local exchange rates from enactment of the
49 Consumer Choice and Investment Act of 2009."

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

1 **"§ 62-73.1. Complaints against providers of telephone services.**

2 Any provider of telephone services, upon receiving a consumer complaint, shall resolve the
3 complaint or shall (i) provide notice to the consumer of the consumer's right to contact the
4 Public Staff of the Commission and (ii) provide to the consumer, in writing, contact
5 information for the Public Staff including both a toll-free telephone number and an electronic
6 mail address. 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. This section shall
11 apply to all providers of telephone services, including Voice over Internet Protocol, wireless, or
12 any other form of telephonic communication in a deregulated telephone exchange."

13 **SECTION 6.** This act is effective when it becomes law and shall expire on June
14 30, 2011.