

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2010-173
HOUSE BILL 466**

AN ACT TO AMEND THE CONSUMER CHOICE AND INVESTMENT ACT OF 2009.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-133.5(g) reads as rewritten:

"(g) The following sections of Chapter 62 of the General Statutes shall not apply to local exchange companies subject to price regulation under the terms of subsection (a) of this ~~section~~: section or electing companies subject to alternative regulation under the terms of subsection (h) of this section: G.S. 62-35(c), 62-45, 62-51, 62-81, 62-111, 62-130, 62-131, 62-132, 62-133, 62-134, 62-135, 62-136, 62-137, 62-139, 62-142, and 62-153."

SECTION 2. G.S. 62-133.5(h) reads as rewritten:

"(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. The election is 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 basic residential lines to rural customers at rates that are less than or comparable to those rates charged to urban customers for the same service.

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

- a. Local exchange company. – The same meaning as provided in G.S. 62-3(16a).
- b. Open to competition from competing local providers. – Both of the following apply:
 1. G.S. 62-110(f1) applies to the franchised area and to local exchange and exchange access services offered by the local exchange company.
 2. The local exchange company is open to interconnection with competing local providers that possess a certificate of public convenience and necessity issued by the Commission. The Commission is authorized to resolve any disputes concerning whether a local exchange company is open to interconnection under this section.
- c. Single-line basic residential service. – Single-line residential flat rate basic voice grade local service with touch tone within a traditional local calling area that provides access to available emergency services and directory assistance, the capability to access interconnecting carriers, relay services, access to operator services, and one annual local directory listing (white pages or the equivalent).
- d. Stand-alone basic residential line. – Single-line basic residential service that is billed on a billing account that does not also contain another service, feature, or product that is sold by the local exchange company or an affiliate of the local exchange company and is billed on a recurring basis on the local exchange company's bill.

(2) Beginning on the date that the local exchange company's election under this subsection becomes effective, the local exchange company shall continue to offer stand-alone basic residential lines to all customers who choose to subscribe to that service, and the local exchange company may increase rates



for those lines annually by a percentage that does not exceed the percentage increase over the prior year in the Gross Domestic Product Price Index as reported by the United States Department of Commerce, Bureau of Economic Analysis, unless otherwise authorized by the Commission. With the sole exception of ensuring the local exchange company's compliance with the preceding sentence, the Commission shall not:

- a. Impose any requirements related to the terms, conditions, rates, or availability of any of the local exchange company's stand-alone basic residential lines.
 - b. Otherwise regulate any of the local exchange company's stand-alone basic residential lines.
- (3) Except to the extent provided in subdivision (2) of this subsection, beginning on the date the local exchange company's election under this subsection becomes effective, the Commission shall not do ~~either any~~ of the following:
- a. Impose any requirements related to the terms, conditions, rates, or availability of any of the local exchange company's retail services.
 - b. Otherwise regulate any of the local exchange company's retail services.
 - c. Impose any tariffing requirements on any of the local exchange company's services that were not tarrified as of the date of the election; or impose any constraints on the rates of the local exchange company's services that were subject to full pricing flexibility as of the date of election.
- (4) A local exchange company's election under this subsection does not affect the obligations or rights of an incumbent local exchange carrier, as that term is defined by section 251(h) of the Federal Telecommunications Act of 1996 (Act), under sections 251 and 252 of the Act or any Federal Communications Commission regulation relating to sections 251 and 252 of the Act, nor does it affect any authority of the Commission to act in accordance with federal or State laws or regulations, including those granting authority to set rates, terms, and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements.
- (5) A local exchange company's election under this subsection does not prevent a consumer from seeking the assistance of the Public Staff of the North Carolina Utilities Commission to resolve a complaint with that local exchange company, as provided in G.S. 62-73.1.
- (6) A local exchange company's election under this subsection does not affect the Commission's jurisdiction concerning the following:
- a. Enforce federal requirements on the local exchange company's marketing activities. However, the Commission may not adopt, impose, or enforce other requirements on the local exchange company's marketing activities.
 - b. The telecommunications relay service pursuant to G.S. 62-157.
 - c. The Life Line or Link Up programs consistent with Federal Communications Commission rules, including, but not limited to, 47 C.F.R. § 54.403(a)(3), as amended from time to time, and relevant orders of the North Carolina Utilities Commission.
 - d. Universal service funding pursuant to G.S. 62-110(f1).
 - e. Carrier of last resort obligations pursuant to G.S. 62-110.
 - f. The authority delegated to it by the Federal Communications Commission to manage the numbering resources involving that local exchange company.
 - g. Regulatory authority over the rates, terms, and conditions of wholesale services."

SECTION 3. G.S. 62-133.5(i) reads as rewritten:

"(i) ~~To the extent applicable, a~~ A competing local provider authorized by the Commission to do business under the provisions of G.S. 62-110(f1) may also elect to have its rates, terms, and conditions for its services determined pursuant to the plan described in subsection (h) of this section. However, it is provided further that any provisions of subsection

(h) of this section requiring the provision of a specific retail service or impacting the pricing of such service, including stand-alone residence service, shall not apply to competing local providers."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 4:11 p.m. this 2nd day of August, 2010