

1 HB196
2 135793-3
3 By Representatives Hill and Robinson (O)
4 RFD: Commerce and Small Business
5 First Read: 07-FEB-12

1 ENGROSSED

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3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To amend Sections 37-2A-2 and 37-2A-8 of the Code of
9 Alabama 1975, to further define basic telephone service and to
10 provide that a local exchange carrier would not be required to
11 provide basic telephone service subject to certain exceptions.
12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 37-2A-2 and 37-2A-8 of the Code
14 of Alabama 1975, are amended to read as follows:

15 "§37-2A-2.

16 "When used in this chapter, the following words have
17 the following meanings:

18 "~~(1) BASIC TELEPHONE SERVICE. A retail service that~~
19 ~~provides to the premises of residential customers or to the~~
20 ~~premises of business customers the following features and~~
21 ~~functions only:~~

22 "~~a. Dial tone.~~

23 "~~b. Access to other lines for the transmission of~~
24 ~~two-way switched or dedicated communication within a local~~
25 ~~calling area without additional usage sensitive charges.~~

26 "~~c. A primary directory listing.~~

27 "~~d. Dual-tone multi-frequency signaling.~~

1 ~~"e. Access to operator services.~~

2 ~~"f. Access to directory assistance services.~~

3 ~~"g. Access to telecommunications relay services for~~
4 ~~the deaf or hard-of-hearing.~~

5 ~~"h. Access to E-911 service where provided by a~~
6 ~~local governmental authority or multi-jurisdictional~~
7 ~~authority.~~

8 ~~"i. Access to inter-exchange long distance service.~~

9 ~~"The term does not include service that includes any~~
10 ~~feature and function other than those listed in paragraphs a.~~
11 ~~through i. or that includes any other communications service,~~
12 ~~even as to the features and functions that are listed in~~
13 ~~paragraphs a. through i. The term also does not include~~
14 ~~service to a residential customer or a business customer who~~
15 ~~subscribes to more than one line of basic telephone service.~~
16 ~~An incumbent local exchange carrier's rate for residential~~
17 ~~basic telephone service and for a business customer who~~
18 ~~subscribes to no more than one line of basic telephone service~~
19 ~~shall be the same in rural areas as in urban areas of the~~
20 ~~state or no higher than the rates for basic service in~~
21 ~~existence on August 1, 2009.~~

22 ~~"(1) BASIC TELEPHONE SERVICE. "Voice telephony~~
23 ~~service" as defined in 47 C.F.R. 54.101(a), provided by an~~
24 ~~incumbent local exchange carrier through any technology and~~
25 ~~through any affiliate or service arrangement.~~

26 "(1) BASIC TELEPHONE SERVICE. Refers to a service
27 that, as provided by an incumbent local exchange carrier, may

1 be through any technology and through any affiliate or service
2 arrangement and includes the functionalities described in 47
3 C.F.R. 54.101(a).

4 "(2) BROADBAND SERVICE or BROADBAND ENABLED SERVICE.
5 Any service that consists of or includes a high-speed access
6 capability to transmit at a rate that is not less than 200
7 kilobits per second either in the upstream or downstream
8 direction, and either of the following:

9 "a. Provides computer processing, information
10 storage, information content or protocol conversion, including
11 any service applications or information service provided over
12 such high-speed access service.

13 "b. Is used to provide access to the Internet.

14 "(3) BUNDLED OFFERING. A combination of retail
15 services offered as a package, whether at a single price or
16 with the availability of the price for one service contingent
17 on the purchase of other services. A bundled offering must be
18 advertised and sold as a bundled offering at rates, terms, or
19 conditions that are different than if the services are
20 purchased separately and may be comprised of any
21 telecommunications services offered by a local exchange
22 carrier in combination with any other telecommunications
23 services or with any nontelecommunications services, including
24 services offered by an affiliate of the local exchange carrier
25 or a nonaffiliated third party provider.

26 "(4) COMMISSION. The Public Service Commission of
27 the State of Alabama.

1 "(5) COMMUNICATIONS SERVICE. Any service that is
2 either a telecommunications service or an information service.

3 "(6) CONTRACT OFFERING. Any retail contractual
4 agreement, whether or not memorialized in writing, by which a
5 local exchange or inter-exchange carrier offers any
6 communications service to any existing customer or potential
7 customer.

8 "(7) ELIGIBLE TELECOMMUNICATIONS CARRIER. A
9 telecommunications carrier which qualifies for universal
10 service support under 47 U.S.C. §214(e) as a common carrier
11 and provides the services supported by the federal universal
12 support mechanisms under 47 U.S.C. §254(c) throughout the
13 service area for which eligible telecommunications carrier
14 designation is received.

15 "(8) EXCHANGE ACCESS. The offering of access to
16 telephone exchange services or facilities for the purpose of
17 origination or termination of telephone toll services.

18 "(9) EXISTING BUNDLED OFFERING. A bundled offering
19 subscribed to by the customer before September 1, 2006.

20 "(10) EXISTING CONTRACT OFFERING. Any contract
21 offering executed by the customer before September 1, 2006.

22 "(11) INCUMBENT LOCAL EXCHANGE CARRIER. With respect
23 to an area, the local exchange carrier that, on the date of
24 enactment of the Federal Telecommunications Act of 1996,
25 provided telephone exchange service in the area and was deemed
26 to be a member of the Exchange Carrier Association pursuant to
27 Section 69.601(b) of the Federal Communications Commission's

1 regulations (47 CFR §69.601(b)) or, on or after that date of
2 enactment, became a successor or assignee of a member of the
3 Exchange Carrier Association.

4 "(12) INFORMATION SERVICE. The offering of a
5 capability for generating, acquiring, storing, transforming,
6 processing, retrieving, utilizing, or making available
7 information via telecommunications, and includes electronic
8 publishing, but does not include any use of any such
9 capability for the management, control, or operation of a
10 telecommunications system or the management of a
11 telecommunications service.

12 "(13) INTER-EXCHANGE CARRIER. Any company certified
13 by the commission to provide intrastate inter-exchange
14 telecommunications service in this state.

15 "(14) LIFELINE. A program designed to increase the
16 availability of communications services to low income
17 subscribers by providing a credit to monthly recurring local
18 service to qualifying residential subscribers. The terms and
19 conditions of the program shall be in compliance with the
20 Federal Communications Commission's rules and with the
21 Telecommunications Act of 1996.

22 "(15) LINK-UP. A program designed to increase the
23 availability of communications services to low income
24 subscribers by providing a credit to the non-recurring
25 installation and service charges to qualifying residential
26 subscribers. The terms and conditions of the program shall be

1 in compliance with the Federal Communications Commission's
2 rules and with the Telecommunications Act of 1996.

3 "(16) LOCAL EXCHANGE CARRIER. Any provider of
4 telecommunications service that is engaged in the provision of
5 telephone exchange service or exchange access.

6 "(17) NEW BUNDLED OFFERING. A bundled offering
7 subscribed to by the customer on or after September 1, 2006.

8 "(18) NEW CONTRACT OFFERING. Any contract offering
9 executed by the customer on or after September 1, 2006.

10 "(19) OPTIONAL TELEPHONE FEATURES. Those central
11 office-based features that were tariffed by a local exchange
12 carrier on or before February 1, 2005, that, where available:

13 "a. Are available to a line-side connection in a
14 telephone switch;

15 "b. Are available on a stand-alone basis separate
16 from a bundled offering; and

17 "c. Enhance the utility of basic telephone service.
18 The term includes, but is not limited to, call forwarding,
19 call waiting, and caller ID.

20 "(20) TELECOMMUNICATIONS. As defined in the
21 Telecommunications Act of 1996, 47 U.S.C. §153(43).

22 "(21) TELECOMMUNICATIONS CARRIER. Any provider of
23 telecommunications services. A telecommunications carrier
24 shall be treated as subject to this chapter only to the extent
25 that it is engaged in providing telecommunications service.

26 "(22) TELECOMMUNICATIONS SERVICE. The offering of
27 telecommunications for a fee directly to the public, or to any

1 classes of users as to be effectively available directly to
2 the public, regardless of the facilities used. The term does
3 not include the provision of commercial mobile service under
4 Section 332(c) of the Federal Communications Act of 1934.

5 "(23) TELEPHONE EXCHANGE SERVICE. Either of the
6 following:

7 "a. Service within a telephone exchange, or within a
8 connected system of telephone exchanges within the same
9 exchange area operated to furnish to subscribers
10 intercommunicating service of the character ordinarily
11 furnished by a single exchange, and which is covered by the
12 exchange service charge.

13 "b. Comparable service provided through a system of
14 switches, transmission equipment, or other facilities, or
15 combination thereof, by which a subscriber can originate and
16 terminate telecommunications service.

17 "(24) VOICE OVER INTERNET PROTOCOL (VoIP) SERVICE.
18 An interconnected voice over Internet (VoIP) service, as
19 defined in 47 C.F.R. §9.3, as amended, that does all of the
20 following:

21 "a. Enables real-time, two-way voice communications.

22 "b. Requires a broadband connection from the user's
23 location.

24 "c. Requires Internet protocol-compatible customer
25 premises equipment (CPE).

1 "d. Permits users generally to receive calls that
2 originate on the public switched telephone network and to
3 terminate calls to the public switched telephone network.

4 "§37-2A-8.

5 "(a) (1) Notwithstanding any provision of law to the
6 contrary, an entity that is not an incumbent local exchange
7 carrier shall not be obligated to tariff or otherwise provide
8 basic telephone service. An incumbent local exchange carrier
9 shall provide, upon reasonable request, basic telephone
10 service to the premises of a permanent residence within its
11 franchised service territory, if the costs, including, but not
12 limited to costs of facilities, rights-of-way, and equipment,
13 of providing basic telephone service to the requesting party
14 does not exceed eight thousand dollars (\$8,000).

15 "(2) If the cost exceeds eight thousand dollars
16 (\$8,000), as provided in subdivision (1), an incumbent local
17 exchange carrier may not deny service on the basis of cost so
18 long as sufficient funds to provide that service are available
19 from the Alabama portion of the applicable federal universal
20 service fund program.

21 "(3) An incumbent local exchange carrier obligated
22 by this section to serve as the carrier of last resort is
23 relieved of that obligation and shall not be obligated to
24 provide basic telephone service to any occupants of real
25 property if the owner or developer of the real property, or a
26 person acting on behalf of the owner or developer of real
27 property, engages in any of the following acts:

1 "a. Permits an alternative communications service
2 provider to install its facilities or equipment used to
3 provide communications services based on a condition of
4 exclusion of the incumbent local exchange carrier during the
5 construction phase of the real property.

6 "b. Accepts or agrees to accept incentives or
7 rewards from an alternative communications services provider
8 that are contingent upon the provision of any or all local
9 communications services by one or more alternative
10 communications services providers to the exclusion of the
11 incumbent local exchange carrier.

12 "c. Collects from the occupants or residents of the
13 real property mandatory charges for the provision of any local
14 communications services provided by an alternative
15 communications services provider to the occupants or residents
16 in any manner, including, but not limited to, collection
17 through rent, fees, or dues.

18 "d. Prohibits an incumbent local exchange carrier
19 from providing the full range of its communications services,
20 including video services, to the premises of potential
21 customers.

22 "(4) If the alternative communications services
23 provider in paragraphs a. through c. of subdivision (3) goes
24 out of business and is unable to provide service to the
25 property and there is no other provider willing or able to
26 provide, or actually providing voice service to the property,
27 then the incumbent local exchange carrier, subject to the

1 limitations in subdivisions (1) and (2), shall provide voice
2 service to the property utilizing any available technology
3 through any affiliated companies, provided the incumbent local
4 exchange carrier has reasonable access to the property.

5 "(5)a. Notwithstanding subdivisions (1), (2), (3),
6 and (4), on the effective date of the act adding this
7 subdivision, an incumbent local exchange carrier is relieved
8 of its obligation to provide basic telephone service unless
9 the incumbent local exchange carrier elects to retain the
10 obligation and notifies the Public Service Commission not
11 later than 30 days after the effective date of the act adding
12 this subdivision.

13 "b. An incumbent local exchange carrier that elects
14 to retain the obligation to provide basic telephone service
15 pursuant to paragraph a. and files a notice with the Public
16 Service Commission on or before December 1 of any year, shall
17 be relieved of the obligation on January 1 of any subsequent
18 year.

19 "(6) The relief specified in subdivision (5) does
20 not affect an incumbent local exchange carrier's obligations
21 under federal law.

22 "(7)a. If the premises of a permanent residence in
23 existence on the effective date of the act adding this
24 subdivision is within an incumbent local exchange carrier's
25 franchised service territory and the residence is unable to
26 receive voice service from any provider through any voice
27 technology, the owner of the permanent residence or a tenant

1 may file a request for service with the commission. Following
2 investigation by the commission, if the commission determines
3 that a reasonable request for service has been made and that
4 no voice service is available to the premises of the permanent
5 residence, the commission may determine whether ~~a~~ an incumbent
6 local exchange carrier is best able to provide voice service
7 to the residence and may order the carrier to provide voice
8 service to the residence. Alternatively, the commission may
9 conduct a competitive procurement process to identify a
10 willing provider of voice service to provide voice service at
11 the requesting residence. In either case, the incumbent local
12 exchange carrier or willing provider of voice service may
13 utilize any voice technology or service arrangement to provide
14 voice service. The commission shall issue a final order
15 disposing of any request within 90 days of the filing of the
16 request.

17 "b. This subdivision and any obligations created
18 pursuant to it shall be repealed 12 months after the effective
19 date of the act adding this subdivision.

20 "(b) (1) Beginning February 1, 2007, the retail price
21 for basic telephone service to be offered by incumbent local
22 exchange carriers shall not exceed the highest price charged
23 by the incumbent local exchange carrier on January 31, 2007.

24 "(2)a. Beginning January 1, 2008, and every
25 succeeding January 1 through December 31, 2010, the retail
26 rates for basic telephone service may not be increased by the
27 incumbent local exchange carrier to exceed the rates of the

1 previous year as of January 1, plus any increase in the
2 Consumer Price Index for all urban consumers as reported by
3 the U.S. Department of Labor, Bureau of Labor Statistics.

4 "b. Beginning August 1, 2009, the commission shall
5 not have any jurisdiction, right, power, authority, or duty to
6 regulate, supervise, control, oversee, or monitor, directly or
7 indirectly, the costs, rates, charges, terms, or conditions,
8 for any retail telecommunications services provided to
9 businesses or government entities, except as provided in
10 Section 37-2A-11(b) (6).

11 "c. Beginning January 1, 2011, the commission shall
12 not have any jurisdiction, right, power, authority, or duty to
13 regulate, supervise, control, oversee, or monitor, directly or
14 indirectly, the costs, rates, charges, terms, or conditions
15 for basic telephone service.

16 "(3)a. Each optional telephone feature in a bundled
17 offering must be available on a stand-alone basis under a
18 tariff on file with the commission. If a bundled offering is
19 offered by a local exchange carrier, the carrier shall have a
20 basic telephone service tariffed offering for residential
21 customers on file with the commission.

22 "b. Beginning January 1, 2008, and through December
23 31, 2010, increases in tariffed rates for optional telephone
24 features may not exceed five percent per optional telephone
25 feature per year.

26 "c. Through December 31, 2010, a residential bundled
27 offering that consists solely of basic telephone service and

1 optional telephone features must be priced at or below the sum
2 of the tariffed price of basic telephone service and the
3 tariffed price of the associated optional telephone features.

4 "d. Beginning January 1, 2011, the commission shall
5 not have any jurisdiction, right, power, authority, or duty to
6 regulate, supervise, control, oversee, or monitor, directly or
7 indirectly, the costs, rates, charges, terms, or conditions
8 for optional telephone features."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Commerce and
Small Business..... 07-FEB-12

Read for the second time and placed
on the calendar 1 amendment 16-FEB-12

Read for the third time and passed
as amended..... 06-MAR-12

Yeas 95, Nays 1, Abstains 1

Greg Pappas
Clerk