

HOUSE BILL 2363

By Todd

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 4 and Title 65, Chapter 5, relative to regulation of telecommunications.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Market Regulation Act of 2009".

SECTION 2. Tennessee Code Annotated, Section 65-5-109, is amended by adding the following language as new subsections:

(l) Any certificated provider of local exchange or intra-state long distance telephone service may elect to operate pursuant to market regulation by filing of its notice to do so with the authority.

(m) Upon filing of a notice of market regulation by a certificated provider, the authority shall hold the notice for a period of fifteen (15) days, during which time any interested party may file an intervention requesting a contested case proceeding. If the fifteen (15) day period expires without an intervention requesting a contested case proceeding, the filing party's election to operate pursuant to market regulation shall become effective immediately.

(n) If an interested party files a request for a contested case proceeding within the period set forth in subsection (m), the authority shall conduct a contested case proceeding and enter a final order within ninety (90) days from the date of the filing of the original notice to determine whether the public interest and the policies set forth in this part would be served by granting the filing party's notice, as provided in § 65-5-108(b).

(o) Upon a finding by the authority that the conditions of § 65-5-108(b) have been satisfied, to include a determination that existing and potential competition is an effective regulator of the price of those services provided by the filing party, the filing party shall be granted its election to operate pursuant to market regulation.

(p) A certificated provider that has been granted its election to operate pursuant to market regulation shall be subject to the jurisdiction of the authority only when:

(1) The authority is exercising jurisdiction delegated to it pursuant to the federal 1996 Telecommunications Act;

(2) The authority is assessing and collecting inspection fees calculated in accordance with § 65-4-303;

(3) The authority is exercising its jurisdiction over video franchises pursuant to § 7-59-306;

(4) The authority is exercising jurisdiction respecting underground facilities damage prevention;

(5) The authority is exercising jurisdiction respecting the Life Line or Link Up programs funded by the federal universal service fund;

(6) The authority is promulgating rules or issuing orders to provide for rates and service quality standards for inter-carrier wholesale services pursuant to § 65-4-124;

(7) The authority is exercising its jurisdiction to adopt rules, issue orders or adjudicate complaints relative to cross-subsidization, preferences to competitive services or affiliated entities, predatory pricing, price squeezing, price discrimination, tying arrangements or other anti-competitive practices, as provided in § 65-5-108(c); or

(8) The authority is exercising its jurisdiction to hear and resolve customer complaints pursuant to §§ 65-4-117 and 65-4-119.

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.