~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 25, 2015

**S. 277**

Introduced by Senators Alexander, Rankin and Hutto

S. Printed 2/25/15--S. [SEC 2/26/15 2:07 PM]

Read the first time January 13, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 277) to amend the Code of Laws of South Carolina, 1976, so as to enact the “State Telecom Equity in Funding Act” by adding Section 58‑9‑2515, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking item (10) on page 6, lines 19-29 and inserting:

/ (10) The term ‘carrier of last resort’ means a facilities‑based local exchange carrier, as determined by the commission, not inconsistent with the federal Telecommunications Act of 1996, which has the obligation to provide basic local exchange telephone service, upon reasonable request, to all residential and single‑line business customers within a defined service or geographic area. A carrier of last resort may meet its obligation by using any available technology of equal or greater service quality than is required by applicable commission regulations as of the effective date of this act, including, but not limited to, the provision of a broadband connection that allows the customer to access the voice provider of the customer’s choice. Initially, the incumbent LEC must be a carrier of last resort within its existing service area.” /

To further amend the bill, as and if amended, by adding appropriately numbered items after item (7) in SECTION 5 on page 10 to read:

/ ( ) A carrier of last resort authorized to receive funds from the USF is subject to random compliance audits and other investigations by the Office of Regulatory Staff, in accordance with Section 58-4-55.

( ) All carriers of last resort shall retain all records of operations within the jurisdiction of the Office of Regulatory Staff required to demonstrate that the support received was used to support the programs for which it was intended. This documentation must be maintained for at least 10 years from the receipt of the funding. All such documents shall be made available upon request to the Office of Regulatory Staff. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

LUKE A. RANKIN GERALD MALLOY

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill is not expected to have a revenue impact on the general fund, federal funds, or other funds. The Public Service Commission reports a cost savings of $650 to federal and other funds. The Department of Revenue indicates a minimal expenditure impact on general funds, which can be absorbed by the agency. The Municipal Association of South Carolina reports this bill will have no expenditure impact on municipal governments. There were no responses from county governments regarding the expenditure impact of this bill.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill enacts the State Telecom Equity in Funding Act. New §58-9-2535 provides for the manner to assess and collect dual party relay charges by local telephone exchanges (LEC), commercial mobile radio services (CMRS), voice over internet protocol (VoIP) service providers, and prepaid wireless telecom providers for use in supporting the Dual Party Relay System (DPR), a means for hearing and speech impaired people to communicate by telephone relay. It amends §58-9-2530(A) so as to cap the monthly relay charge at $0.10 per line, whereas the current cap is $0.25. Further, the actual charge set by the Public Service Commission must be uniform for applicable service providers in relation to DPR system funding needs. Also, §58-9-280 is amended, which provides for the transition of the Interim Local Exchange Carrier Fund into the Universal Service Fund (USF), and otherwise limits the size of the Universal Service Fund.

**Judicial Department**.

This bill clarifies the jurisdiction of the Public Service Commission over certain providers regarding telephone service for the hearing and speech impaired. The Judicial Department does not anticipate that this bill will have any impact on the Judicial Department general fund, federal funds, or other funds.

**Office of Regulatory Staff**.

The Office of Regulatory Staff reports this bill will create a $650 cost savings to federal and other funds. The cost savings relate to supplies and postage necessary to send requests for information to companies to recalculate the Interim LEC Fund size annually and the cost to send Interim LEC Fund invoices on a monthly basis.

**Public Service Commission**.

The Public Service Commission reports this bill will have no impact on the general fund, federal funds, or other funds.

**Department of Revenue**.

The Department of Revenue reports this bill will have a minimal impact to adjust forms and instructions. This impact can be absorbed by the agency.

**State Revenue**

New §58-9-2535 in Section 3 of the bill provides for the manner to assess and collect dual party relay charges to support the DPR as expanded to include LECs, CMRSs, VoIPs and prepaid wireless providers. The bill also amends §58-9-2530(A) in Section 8 so as to cap the monthly relay charge at $0.10 per line across those providers, whereas the current cap is $0.25. The Office of Regulatory Staff (ORS) reported $4.2 million from dual party fees as restricted funds in FY 2013-14. The cost per line varies depending on total lines actually put in use, and a review by ORS estimates funding in FY 2015-16 could possibly be met with a cost of $0.06 to $0.07 per line. Because the fee is set only as high as necessary to generate revenue sufficient to fund ongoing DPR system operations, there would be no change in the total revenue generated from dual party relay fees in FY 2015-16.

Also, §58-9-280 is amended in Section 5A, to merge the Interim Local Exchange Carrier Fund into the Universal Service Fund (USF), to expand the universe of contributing providers, and to change language to limit the size of the USF to include adjustments for those LECs taking the election in §58-9-576(C) regarding certain alternative rates and terms of regulation. Thus, the number of providers contributing to the USF would increase, yet the contribution per provider would be proportionately less. As the funding level is determined by the commission, these amendments would not change the total revenue generated for agency earmarked funds from provider contributions to the USF in FY 2015-16. Therefore, the bill is not expected to impact state revenues.

**Local Expenditure**

The Revenue and Fiscal Affairs Office contacted the Municipal Association of South Carolina and thirteen county governments regarding the impact of this bill. The Municipal Association reports this bill will have no expenditure impact on municipal governments. There were no responses from county governments regarding the expenditure impact of this bill.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “STATE TELECOM EQUITY IN FUNDING ACT” BY ADDING SECTION 58‑9‑2515 SO AS TO CLARIFY THE JURISDICTION OF THE PUBLIC SERVICE COMMISSION OVER CERTAIN PROVIDERS REGARDING TELEPHONE SERVICE FOR HEARING AND SPEECH IMPAIRED PEOPLE; BY ADDING SECTION 58‑9‑2535 SO AS TO PROVIDE FOR THE MANNER OF ASSESSING AND COLLECTING DUAL PARTY RELAY CHARGES BY LOCAL EXCHANGE PROVIDERS, COMMERCIAL MOBILE RADIO SERVICE PROVIDERS, AND VOICE OVER INTERNET PROTOCOL SERVICE PROVIDERS, AMONG OTHER THINGS; TO AMEND SECTION 58‑9‑10, AS AMENDED, RELATING TO DEFINITIONS CONCERNING THE REGULATION OF TELEPHONE SERVICE, SO AS TO REVISE THE DEFINITIONS OF “BASIC LOCAL EXCHANGE TELEPHONE SERVICE” AND “CARRIER OF LAST RESORT”; TO AMEND SECTION 58‑9‑280, AS AMENDED, RELATING TO THE UNIVERSAL SERVICE FUND FOR CARRIERS OF LAST RESORT, SO AS TO PROVIDE FOR THE TRANSITION OF THE INTERIM LOCAL EXCHANGE CARRIER FUND INTO THE UNIVERSAL SERVICE FUND, TO LIMIT THE SIZE OF THE UNIVERSAL SERVICE FUND, AND TO REQUIRE VOICE OVER INTERNET PROTOCOL PROVIDERS, COMMERCIAL MOBILE RADIO SERVICE PROVIDERS, AND PREPAID WIRELESS SERVICE PROVIDERS TO CONTRIBUTE TO THE UNIVERSAL SERVICE FUND; TO AMEND SECTION 58‑9‑576, AS AMENDED, RELATING TO CERTAIN STAND‑ALONE BASIC RESIDENTIAL LINE RATES, SO AS TO PROVIDE FOR THE TERMINATION OF THE RATES FIVE YEARS AFTER THEY BECOME EFFECTIVE; TO AMEND SECTION 58‑9‑2510, AS AMENDED, RELATING TO DEFINITIONS CONCERNING THE TELEPHONE SERVICE FOR HEARING AND SPEECH IMPAIRED PEOPLE, SO AS TO REVISE THESE DEFINITIONS AND PROVIDE ADDITIONAL NECESSARY DEFINITIONS; TO AMEND SECTION 58‑9‑2530, AS AMENDED, RELATING TO THE OPERATING FUND FOR A SYSTEM OF DUAL PARTY RELAY DEVICES AND RELATED TELECOMMUNICATIONS DEVICES, SO AS TO IMPOSE CERTAIN UNIFORM-RELATED SURCHARGES ON LOCAL EXCHANGE PROVIDERS; AND TO REPEAL SECTION 58‑9‑2540 RELATING TO AN ADVISORY COMMITTEE CONCERNING STATEWIDE TELECOMMUNICATIONS RELAY ACCESS SERVICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known and may be cited as the “State Telecom Equity in Funding Act”.

SECTION 2. Article 21, Chapter 9, Title 58 of the 1976 Code is amended by adding:

“Section 58‑9‑2515. Nothing in this article expands, diminishes, or otherwise affects any existing jurisdiction of the commission over any local exchange provider, prepaid wireless provider, CMRS provider, or VoIP provider; or any services provided by any such provider.”

SECTION 3. Article 21, Chapter 9, Title 58 of the 1976 Code is amended by adding:

“Section 58‑9‑2535. (A) A local exchange provider must collect the dual party relay charge established in Section 58‑9‑2530(A) on each local exchange access facility. For bills rendered on or after the effective date of this act, for any individual local exchange access facility that is capable of simultaneously carrying multiple voice and data transmissions, a subscriber must be billed a number of dual party relay charges equal to:

(1) the number of outward voice transmission paths activated on such a facility in cases where the number of activated outward voice transmission paths can be modified by the subscriber only with the assistance of the service supplier; or

(2) five, where the number of activated outward voice transmission paths can be modified by the subscriber without the assistance of the service supplier. The total number of dual party relay charges is subject to a maximum of fifty such charges for each account.

(a) A billed subscriber must be liable for any dual party relay charge imposed under this subsection until it has been paid to the local exchange provider. A local exchange provider has no obligation to take any legal action to enforce the collection of the dual party relay charges for which a subscriber is billed.

(b) Local exchange providers that collect dual party relay charges are entitled to retain two percent of the gross dual party relay charges remitted to the Office of Regulatory Staff as an administrative fee. Within forty‑five days after the end of the month during which the charges were collected, each local exchange provider shall file with the Office of Regulatory Staff a return showing the total amount of dual party relay charges collected for the month and, at the same time, shall remit to the Office of Regulatory Staff the charges collected for that month less the administrative fee.

(c) Dual party relay charges imposed under this subsection must be added to the billing by the local exchange provider to its subscriber and may be stated separately.

(B) A CMRS provider must collect the dual party relay charge established in Section 58‑9‑2530(A) for each CMRS connection for which there is a mobile identification number containing an area code assigned to this State by the North American Numbering Plan Administrator; however, trunks or service lines used to supply service to CMRS providers must not be subject to a dual party relay charge. Prepaid wireless telecommunications service is subject to subsection (D) and not to this subsection.

(1) A billed subscriber must be liable for any dual party relay charge imposed under this subsection until it has been paid to the CMRS provider. A CMRS provider has no obligation to take any legal action to enforce the collection of the dual party relay charges for which a subscriber is billed.

(2) CMRS providers that collect dual party relay charges are entitled to retain two percent of the gross dual party relay charges remitted to the department as an administrative fee. On or before the twentieth day of the second month succeeding each monthly collection of the dual party relay charges, every CMRS provider shall file with the department a return under oath, in a form prescribed by the department, showing the total amount of charges collected for the month and, at the same time, shall remit to the department the fees collected for that month. The department shall transfer all charges remitted to the operating fund.

(3) Dual party relay charges imposed under this subsection must be added to the billing by the CMRS provider to its subscriber and may be stated separately.

(C) A VoIP provider must collect the dual party relay charge established in Section 58‑9‑2530(A) on each VoIP service line. This dual party relay charge must be sourced at the service address in the case of fixed VoIP service, or in the same manner as CMRS is sourced pursuant to the Mobile Telecommunications Sourcing Act, Public Law 106‑252, codified at 4 U.S.C. Sections 116 through 126.

(1) A billed subscriber must be liable for any dual party relay charge imposed under this subsection until it has been paid to the VoIP provider. A VoIP provider has no obligation to take any legal action to enforce the collection of the dual party relay charges for which a subscriber is billed. For bills rendered on or after the effective date of this act, for any VoIP service line that is capable of simultaneously carrying multiple voice and data transmissions, a VoIP subscriber must be billed a number of dual party relay charges equal to:

(a) the number of outward voice transmission paths activated on such a VoIP service line in cases where the number of activated outward voice transmission paths can be modified by the subscriber only with the assistance of the VoIP provider; or

(b) five, where the number of activated outward voice transmission paths can be modified by the subscriber without the assistance of the VoIP provider. The total number of dual party relay charges is subject to a maximum of fifty such charges for each account.

(2) VoIP providers that collect dual party relay charges are entitled to retain two percent of the gross dual party relay charges remitted to the department as an administrative fee. Within forty‑five days after the end of the month during which the charges were collected, each VoIP provider shall file with the department a return under oath, in a form prescribed by the department, showing the total amount of dual party relay charges collected for the month and, at the same time, shall remit to the department the charges collected for that month less the administrative fee. The department shall transfer all charges remitted to the operating fund.

(3) Dual party relay charges imposed under this subsection must be added to the billing by the VoIP provider to its subscriber and may be stated separately.

(D) A prepaid wireless seller must collect the dual party relay charge established in Section 58‑9‑2530(A) from a prepaid wireless consumer with respect to each prepaid wireless retail transaction occurring in this State. The amount of the dual party relay charge either must be separately stated on an invoice, receipt, or other similar document that is provided to the prepaid wireless consumer by the prepaid wireless seller; or otherwise disclosed to the prepaid wireless consumer.

(1) For the purposes of this subsection, a prepaid wireless retail transaction must be sourced as provided in Section 12‑36‑910(B)(5)(b).

(2) The dual party relay charge is the liability of the prepaid wireless consumer and not the prepaid wireless seller or of any prepaid wireless provider. However, the prepaid wireless seller is liable for remitting all dual party relay charges that the prepaid wireless seller collects from prepaid wireless consumers as provided in this subsection to the department.

(3) A prepaid wireless seller is entitled to retain three percent of the gross dual party relay charges remitted to the department as an administrative fee. A prepaid wireless seller must remit the remainder of the dual party relay charges collected to the department on a monthly, quarterly, or annual basis. The department shall transfer all charges remitted to the operating fund.

(4) The audit and appeal procedures applicable pursuant to Chapter 36, Title 12 shall apply to the dual party relay charge.

(5) The department shall establish procedures by which a prepaid wireless seller may document that a sale is not a prepaid wireless retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions pursuant to Section 12‑36‑950.

(E) If a billed subscriber purchases a service that is both a CMRS service and a VoIP service, and there is a single active mobile telephone number or successor dialing protocol associated with the service, then only the CMRS dual party relay charges that are subject to subsection (B) apply to the service. Similarly, if an exchange access facility is also a VoIP service line, then only the dual party relay charges that are subject to subsection (A) shall apply to the service.

(F) For services for which a bill is rendered prior to the effective date of this act, no subscriber or consumer is liable to any person or entity for a different dual party relay charge than the consumer or subscriber has been billed, and no local exchange provider, CMRS provider, VoIP provider, prepaid wireless provider, or prepaid wireless seller is liable to any person or entity for billing, collecting, or remitting a different dual party relay charge than is required by this article, or both.

(G) Neither the State, any political subdivision of the State, nor an intergovernmental agency may require any service provider to impose, collect, or remit a tax, fee, surcharge, or other charge for dual party relay funding purposes other than the dual party relay charges set forth in this article.”

SECTION 4. Section 58‑9‑10(9) and (10) of the 1976 Code, as last amended by Act 354 of 1996, is further amended to read:

“(9) The term ‘basic local exchange telephone service’ means for residential and single‑line business customers, access to basic voice grade local service ~~with touchtone~~, 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 equivalent).

(10) The term ‘carrier of last resort’ means a facilities‑based local exchange carrier, as determined by the commission, not inconsistent with the Federal Telecommunications Act of 1996, which has the obligation to provide basic local exchange telephone service, upon reasonable request, to all residential and single‑line business customers within a defined service or geographic area. A carrier of last resort may meet its obligation by using any available technology, including, but not limited to, the provision of a broadband connection that allows the customer to access the voice provider of the customer’s choice. Initially, the incumbent LEC must be a carrier of last resort within its existing service area.”

SECTION 5.A. Section 58‑9‑280(E) of the 1976 Code, as last amended by Act 218 of 2006, is further amended to read:

“(E) In continuing South Carolina’s commitment to universally available basic local exchange telephone service at affordable rates and to assist with the alignment of prices ~~and/or~~ and cost recovery with costs, and consistent with applicable federal policies, the commission shall establish a universal service fund (USF) for distribution to a ~~carrier(s)~~ carrier of last resort. The commission shall issue its final order adopting such guidelines as ~~may be~~ necessary for the funding and management of the USF within twelve months of the effective date of this section except that the commission, upon notice, may extend that period up to an additional ninety days. These guidelines must not be inconsistent with applicable federal law and shall address, without limitation, the following:

(1) The USF ~~shall~~ must be administered by the Office of Regulatory Staff or a third party designated by the Office of Regulatory Staff under guidelines to be adopted by the commission.

(2) The commission shall require all telecommunications companies providing telecommunications services within South Carolina to contribute to the USF as previously determined by the commission and as modified by any orders the commission may enter pursuant to this subsection. All VoIP providers, as defined in Section 58‑9‑2510(22), all providers of CMRS services, as defined in Section 58‑9‑2510(2), and all prepaid wireless providers as defined in Section 58‑9‑2510(14) shall contribute to the USF in the same manner as telecommunications companies, except that prepaid wireless providers with respect to prepaid wireless service revenues shall contribute to the USF on the basis of all prepaid wireless assessable revenue. For the purposes of this subsection, ‘prepaid wireless assessable revenue’ means all revenues of a prepaid wireless provider from goods or services sold to a person or entity other than a prepaid wireless provider.

(a) Telecommunications companies and VoIP providers that provide VoIP service pursuant to a certificate issued by the commission must remit these contributions to the Office of Regulatory Staff in accordance with orders issued by the commission. All other VoIP providers, all CMRS providers, and all prepaid wireless providers must remit these contributions to the Department of Revenue at the same time and in the same manner as telecommunications companies and VoIP providers that provide VoIP service pursuant to a certificate issued by the commission remit these contributions to the Office of Regulatory Staff. The Department of Revenue monthly shall assess each CMRS provider, each prepaid wireless provider, and each VoIP provider that does not have a certificate issued by the commission, its contribution to the USF. The Office of Regulatory Staff shall certify to the Department of Revenue the USF factor and the amounts to be assessed. The Department of Revenue shall charge the assessments to the companies and collect the assessments as provided by law, including the enforcement and collection provisions of Article 1, Chapter 54, Title 12. The USF assessments, less the Department of Revenue actual incremental increase in the cost of administration, must be transferred to the USF fund administered by the Office of Regulatory Staff or third party administrator designated by the Office of Regulatory Staff.

(b) Telecommunications companies, VoIP providers, CMRS providers, and prepaid wireless providers shall provide information sufficient to permit the requirements of this subsection to be implemented, monitored, and enforced to the Office of Regulatory Staff. All information, records, documents, and their contents provided to the Office of Regulatory Staff by telecommunications companies, VoIP providers, providers of CMRS services, and prepaid wireless providers pursuant to this subsection must be maintained as confidential and are exempt from public disclosure under the South Carolina Freedom of Information Act. All information, records, documents, and their contents that are exchanged between the Office of Regulatory Staff and other state or federal agencies related to implementing, monitoring, and enforcing the requirements of this subsection must be maintained as confidential and are exempt from public disclosure under the South Carolina Freedom of Information Act. Except to the extent necessary to implement, monitor, and enforce contributions to the USF, the provisions of this subsection do not expand, diminish, or otherwise affect any existing jurisdiction of the commission over any telecommunications company, VoIP provider, CMRS provider, prepaid wireless provider, or any services provided by these providers.

(3)(a) ~~The commission also shall require any company providing telecommunications service to contribute to the USF if, after notice and opportunity for hearing, the commission determines that the company is providing private local exchange services or radio‑based local exchange services in this State that compete with a local telecommunications service provided in this State.~~

~~(4)~~ The size of the USF ~~shall be determined by the commission and shall be the sum of the difference, for each carrier of last resort, between its costs of providing basic local exchange services and the maximum amount it may charge for the services. The commission may use estimates to establish the size of the USF on an annual basis, provided it establishes a mechanism for adjusting any inaccuracies in the estimates.~~

~~(5)~~ ~~Monies in the USF shall be distributed to a carrier of last resort upon application and demonstration of the amount of the difference between its cost of providing basic local exchange services and the maximum amount it may charge for such services.~~

~~(6)~~ ~~The commission shall require any carrier of last resort seeking reimbursement from the fund to file with the commission and provide to the Office of Regulatory Staff the information necessary to determine the costs of providing basic local exchange telephone services. In the event that a carrier of last resort does not currently conduct detailed cost studies relating to such services, the commission shall allow for an appropriate surrogate for such study.~~ must be the sum of:

(i) the amount of USF support received by each carrier of last resort in 2014;

(ii) the amount of Interim LEC Fund support received by each local exchange carrier in 2014 less any amounts transitioned to federal mechanisms in 2014;

(iii) all amounts approved by the commission to provide state funding for the Lifeline program for low income subscribers; and

(iv) all amounts approved by the commission for administration of the USF.

(b) That the size of the USF may be adjusted to reflect changes in USF support for those LECs that have made the election set out in Section 58‑9‑576(C).

(4) For local exchange carriers that have previously reduced rates and charges to be eligible to receive USF and that have not made the election set out in Section 58‑9‑576(C), money in the USF must be distributed to a local exchange carrier in the same amount distributed to the carrier from the Interim LEC fund in 2014 less any amounts transitioned to federal mechanisms in 2014, and to a carrier of last resort in the same amount distributed to the carrier of last resort in 2014 for so long as it continues to serve as a carrier of last resort. For any carrier that makes, or has made, an election under Section 58‑9‑576(C), its right to recover from the USF must be governed by the provisions of Section 58‑9‑576(C) and the amount it is entitled to recover must be adjusted in accordance with Section 58‑9‑576(C); provided, however, that nothing in this subsection restricts the ability of any carrier to withdraw from the State USF all amounts approved by the commission to provide state funding for the Lifeline program for low income subscribers.

(5) For services for which a bill is rendered before the effective date of this subsection, no subscriber or consumer is liable to any person or entity for a different universal service charge than the consumer or subscriber has been billed, and no telecommunications company, VoIP provider, CMRS provider, or prepaid wireless provider is liable to any person or entity for billing, collecting, or remitting a different universal contribution amount than is required by this article.

(6) The ORS may take necessary action to implement items (2), (3), and (4) as soon after the effective date of this subsection as administratively feasible.

(7) Subject to the provisions of items (2), (3), and (4), the commission ~~shall have the authority to~~ may make administrative adjustments to the contribution or distribution levels based on yearly reconciliations ~~and to order further contributions or distributions as needed~~.

(8) ~~After notice and an opportunity for hearing to all affected carriers and the Office of Regulatory Staff, the commission by rule may expand the set of services within the definition of universal service based on a finding that the uniform statewide demand for such additional service is such that including the service within the definition of universal service will further the public interest; provided, however, that before implementing any such finding, the commission shall provide for recovery of unrecovered costs through the USF of such additional service by the affected carrier of last resort.~~

~~(9)~~ Nothing in subsection (G) of this section shall preclude the commission from assessing broadband service revenues for purposes of contributions to the USF, pursuant to this subsection.”

B. This entire section is void if any portion of this section is finally adjudicated invalid.

SECTION 6. Section 58‑9‑576(C)(2) of the 1976 Code, as added by Act 7 of 2009, is amended to read:

“(2) Beginning on the date that the LEC’s election, pursuant to this subsection, becomes effective, and ending five years thereafter, the LEC may increase its rates for its stand‑alone basic residential lines that were in service on the preelection date on an annual basis 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 Labor, Bureau of Labor Statistics. If the customer of record for a stand‑alone basic residential line that was in service on the preelection date dies or moves from the residence, the provisions of this subitem will continue to apply for five years after the preelection date to the stand‑alone basic residential line at the residence if a spouse, family member, or ~~co‑tenant~~ cotenant of that customer of record provides documentation showing that he resided at the location and requests to have the stand‑alone basic residential line continued in his name. With the sole exception of ensuring the LEC’s compliance with the preceding sentences, the commission must not:

(a) impose any requirements related to the terms, conditions, rates, or availability of any of the LEC’s stand‑alone basic residential lines that were in service on the preelection date; or

(b) otherwise regulate any of the LEC’s stand‑alone basic residential lines that were in service on the preelection date.”

SECTION 7. Section 58‑9‑2510 of the 1976 Code, as last amended by Act 318 of 2006, is further amended to read:

“Section 58‑9‑2510. As used in this article:

(1) ‘CMRS connection’ means each mobile number assigned to a CMRS customer.

(2) ‘Commercial Mobile Radio Service’ (CMRS) means commercial mobile radio service under Sections 3(27) and 332(d), Federal Telecommunications Act of 1996, 47 U.S.C. Section 151, et seq., Federal Communications Commission Rules, and the Omnibus Budget Reconciliation Act of 1993. The term includes any wireless two‑way communication device, including radio‑telephone communications used in cellular telephone service, personal communication service, or the functional and/or competitive equivalent of a radio‑telephone communications line used in cellular telephone service, a personal communication service, or a network radio access line. The term does not include services that do not provide access to 911 service, a communication channel suitable only for data transmission, a wireless roaming service or other nonlocal radio access line service, or a private telecommunications system.

(3) ‘Commission’ means the Public Service Commission.

(~~2~~4) ‘Deaf person’ means an individual who is unable to hear and understand oral communication, with or without the assistance of amplification devices.

(5) ‘Department’ means the Department of Revenue.

(~~3~~6) ‘Dual party relay system’ or ‘DPR’ means a procedure in which a deaf, hearing, or speech impaired TDD user can communicate with an intermediary party, who then orally relays the first party’s message or request to a third party, or a procedure in which a party who is not deaf or hearing or speech impaired can communicate with an intermediary party who then relays the message or request to a TDD user.

(~~3.5~~7) ‘Dual sensory impaired person’ means an individual who is deaf/blind or has both a permanent hearing impairment and a permanent visual impairment.

(8) ‘Exchange access facility’ means the access from a particular telephone subscriber’s premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks, and Centrex network access registers, all as defined by the South Carolina Public Service Commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, or wide area telecommunications service (wats), foreign exchange (fx), or incoming lines.

(~~4~~9) ‘Hard of hearing person’ means an individual who has suffered a permanent hearing loss which is severe enough to necessitate the use of amplification devices to hear oral communication.

(~~5~~10) ‘Hearing impaired person’ means a person who is deaf or hard of hearing.

(11) ‘Local exchange provider’ means a local exchange telephone company operating in this State.

(~~6~~12) ‘Operating fund’ means the Dual Party Relay Service Operating Fund which is a specific fund to be created by the commission and established, invested, managed, and maintained for the exclusive purpose of implementing the provisions of this chapter according to commission regulations.

(13) ‘Prepaid wireless consumer’ means a person or entity that purchases prepaid wireless telecommunications service in a prepaid wireless retail transaction.

(14) ‘Prepaid wireless provider’ means a person or entity that provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

(15) ‘Prepaid wireless retail transaction’ means the purchase of prepaid wireless telecommunications service from a prepaid wireless seller for any purpose other than resale.

(16) ‘Prepaid wireless seller’ means a person or entity that sells prepaid wireless telecommunications service to another person or entity for any purpose other than resale.

(17) ‘Prepaid wireless telecommunications service’ means any commercial mobile radio service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in units or dollars which decline with use in a known amount.

~~(7)~~ ~~‘Regulatory staff’ means the executive director or the executive director and the employees of the Office of Regulatory Staff.~~

(~~8~~18) ‘Speech impaired person’ means an individual who has suffered a loss of oral communication ability which prohibits normal use of a standard telephone handset.

(19) ‘Subscriber’ means any person, company, corporation, business, association, or party not exempt from county or municipal taxes or utility franchise assessments who is provided telephone (local exchange access facility) service or CMRS service or VoIP service.

(~~9~~20) ‘Telecommunications device’ or ‘telecommunications device for the deaf, hearing, or speech impaired’ or ‘TDD’ or ‘TTY’ means a keyboard mechanism attached to or in place of a standard telephone by some coupling device used to transmit or receive signals through telephone lines.

(21) ‘Voice over Internet Protocol (VoIP) service’ means interconnected VoIP service as that term is defined in 47 C.F.R. Section 9.3 as may be amended.

(22) ‘Voice over Internet Protocol (VoIP) provider’ means a person or entity that provides VoIP service.

(23) ‘Voice over Internet Protocol (VoIP) subscriber’ means a person or entity that purchases VoIP service from a VoIP provider. (24) ‘Voice over Internet Protocol (VoIP) service line’ means a VoIP service that offers an active telephone number or successor dialing protocol assigned by a VoIP service provider to a customer that has outbound calling capability.”

SECTION 8. Section 58‑9‑2530(A) of the 1976 Code, as last amended by Act 318 of 2006, is further amended to read:

“(A) The commission may require ~~all local exchange telephone companies~~ each local exchange provider, CMRS provider, and VoIP provider operating in this State to impose a monthly dual party relay charge not to exceed ~~twenty‑five~~ ten cents ~~on all residential and business local exchange access facilities~~, and each prepaid wireless seller to impose a dual party relay charge of the same amount on each wireless retail transaction, as necessary to fund the establishment and operation of a dual party relay system and a distribution system of TTY’s and other related telecommunications devices in this State. The amount of the dual party charge must be determined by the commission based upon the amount of funding necessary to accomplish the purposes of this article and provide dual party telephone relay services on a continuous basis, and the amount of the charge must be uniform among all local exchange providers, CMRS providers, VoIP providers, and prepaid wireless sellers. ~~If assessed, the local exchange companies shall collect the charge from their customers and transfer the~~ All dual party relay charge monies collected and remitted to the department in accordance with Section 58‑9‑2535 must be transferred to the operating fund, which must be administered by the Office of Regulatory Staff. The dual party relay charge collected and remitted ~~by the local exchange companies~~ in accordance with this article is not subject to any tax, fee, or assessment, nor may it be considered revenue of ~~the~~ a local exchange ~~companies~~ provider, CMRS provider, VoIP provider, prepaid wireless provider, or prepaid wireless seller. The commission may provide for the funding of the dual party relay system through contributions from other sources. The fund must be established, invested, and managed for the exclusive purpose of implementing the provisions of this article according to regulations promulgated by the commission.”

SECTION 9. Section 58‑9‑2540 of the 1976 Code is repealed.

SECTION 10. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑