**A** **BILL**

TO AMEND SECTION 58‑9‑576, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ELECTION BY AND DUTIES OF THE LOCAL EXCHANGE CARRIER AND ALTERNATIVE FORMS OF REGULATION, SO AS TO ENACT THE “CUSTOMER CHOICE AND TECHNOLOGY 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 customer choices and lower prices for these services;

Whereas, traditional telephone service providers remain subject to antiquated statutory restrictions that do not apply to other communications service providers; and

Whereas, this disparity deprives customers of traditional telephone services 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 lifting these restrictions will relieve customers 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 customers 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 “Customer Choice and Technology Investment Act of 2009”. Now, therefore,

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

SECTION 1. Section 58‑9‑576 of the 1976 Code, as last amended by Act 318 of 2006, is further amended by adding:

“(C) Notwithstanding another provision of this chapter, upon the effective date of this subsection, a LEC that is operating pursuant to subsection (B), or a LEC that complies with subsection (A), may elect to have its rates, terms, and conditions for its services determined pursuant to the plan described in this subsection. If at the time of this election the LEC is operating pursuant to subsection (B) above, the election becomes effective five days after the notice of the election is filed with the commission. Otherwise, the election becomes effective in the same manner as provided for in subsection (B)(1).

(1) As used in this subsection:

(a) ‘Single‑line basic residential service’ means 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 equivalent.

(b) ‘Stand‑alone basic residential line’ means single line basic residential service that is billed on a billing account that also does not contain another service, feature, or product that is sold by the LEC or an affiliate of the LEC and that is billed on a recurring basis on the LEC’s bill.

(c) ‘Preelection date’ means the date immediately before the effective date of the LEC’s election under this subsection.

(d) ‘LEC’s preelection state USFwithdrawal’ means the amount of annual distributions or payments the LEC receives from the state USF as of the preelection date.

(e) ‘LEC’s state USF reduction’ means an amount equal to twenty percent of the LEC’s preelection state USFwithdrawal.

(f) ‘LEC’s preelection Interim LEC fund withdrawal’ means the amount of annual distributions or payments the LEC receives from the Interim LEC Fund as of the preelection date**.**

(g) ‘LEC’s Interim LEC fund reduction’ means twenty percent of the LEC’s preelection Interim LEC fund withdrawal.

(2) Beginning on the date that the LEC’s election under this subsection becomes effective, the LEC may increase its:

(a) composite rates for switched access service 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; and

(b) 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. With the sole exception of ensuring the LEC’s compliance with the preceding sentence, the commission may not:

(i) impose any requirements, including without limitation any requirements on marketing activities or on the sharing of information within divisions of the LEC, 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

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

(3) Except to the extent provided for in item (2)(a) and (b), beginning on the date of the LEC’s election pursuant to this subsection becoming effective, the commission may not:

(a) impose any requirements, including without limitation any requirements on marketing activities or on the sharing of information within divisions of the LEC, related to the terms, conditions, rates, or availability of any of the LEC’s services; or

(b) otherwise regulate any of the LEC’s services, including without limitation any stand‑alone basic residential lines put into service after the preelection date.

(4) Beginning on the date of the LEC’s election pursuant to this subsection becoming effective, the commission may not:

(a) impose any requirements, including without limitation any requirements on marketing activities or on the sharing of information within divisions or affiliates, related to the terms, conditions, rates, or availability of any interexchange services offered by the LEC or any of its affiliated entities; or

(b) otherwise regulate any of the interexchange services of the LEC or any of its affiliates.

(5) The LEC shall continue to provide contributions to the state USF and the commission shall ensure that contributions to the state USF, pursuant to Section 58‑9‑280(E), are maintained at appropriate levels.

(a) For the one‑year period beginning on the date of the LEC’s election pursuant to this subsection becoming effective, the LEC is entitled to withdraw from the Interim LEC fund an amount equal to the LEC’s preelection Interim LEC fund withdrawal less the LEC’s Interim LEC fund reduction. For each subsequent one‑year period, the amount the LEC is entitled to withdraw from the Interim LEC fund is reduced by the LEC’s Interim LEC fund reduction. Beginning at the expiration of the fourth year after the date of the LEC’s election pursuant to this subsection becoming effective, the LEC is no longer entitled to withdraw any funds from the Interim LEC fund.

(b) Except as otherwise provided in subitem (c) of this item, for the one‑year period beginning on the date of the LEC’s election pursuant to this subsection becoming effective, the LEC is entitled to withdraw from the state USF an amount equal to the LEC’s preelection state USF withdrawal less the LEC’s state USF reduction. For each subsequent one‑year period, the amount the LEC is entitled to withdraw from the state USF is reduced by the LEC’s state USF reduction amount. At the end of the fourth year after the date of the LEC’s election pursuant to this subsection becoming effective, the LEC is no longer entitled to withdraw any funds from the state USF.

(c) Before the end of the fourth year after the date of the LEC’s election pursuant to this subsection becoming effective, the LEC may petition the commission to withdraw from the state USF an amount that differs from the amount determined pursuant to subitem (b) of this item. Upon the filing of this petition, the commission, after notice and opportunity for a hearing, shall determine the amount of distributions or payments from the state USF the LEC is entitled to receive, based only on the LEC’s stand‑alone basic residential lines that were in service on the preelection date and that remain in service as of the date of the LEC’s petition. The commission also shall establish a process for annually reducing the amount of distributions or payments from the state USF based on the LEC’s stand‑alone basic residential lines that were in service on the preelection date and that remain in service as of the adjustment date.

(6)(a) In order to transition to the changes effectuated by items (2)(b), (3), and (4), the rates, terms, and conditions for products and services no longer subject to regulation by the commission which were in effect with a specific term on the preelection date remain in effect for the duration of the specific term as to customers who subscribed to those products or services on or before the preelection date. If no term applied to the products or services as of the preelection date, then the rates, terms, and conditions governing those products or services remain in effect until a written customer service agreement becomes effective as provided for in subitem (b) of this item.

(b) Except as provided in subitem(a) of this item, the LEC, and the LEC’s affiliates offering interexchange services, shall offer existing and new customers a written customer service agreement, which in the case of new customers must be delivered no later than thirty days after the initiation of service. The customer service agreement must include a provision advising the customer that he has thirty days from receipt in which to elect to:

(i) terminate service with the LEC or the LEC’s affiliates offering interexchange services by contacting the entity within the thirty‑day time period, in which case the customer has the right to pay off the account in the same manner and under the same rates, terms, and conditions as set forth in the written customer service agreement provided to the customer, which written customer service agreement must relate back in its entirety to the date of a new customer’s request for service or the date the agreement was sent to an existing customer, as applicable, and is in effect until termination through pay off; or

(ii) use the services of the LEC or the LEC’s affiliates offering interexchange services, or to otherwise continue the account with the LEC or the LEC’s affiliates offering interexchange services after the thirty‑day time period has elapsed, either of which constitutes the customer’s assent to all the rates, terms, and conditions of the written customer service agreement. The customer service agreement is deemed received three business days after deposit in the United States mail, first‑class delivery.

(7) The LEC’s assessments pursuant to Sections 58‑3‑100, 58‑3‑540, and 58‑4‑60, and the assessments of the LEC’s affiliates offering interexchange services pursuant to Sections 58‑3‑100, 58‑3‑540, and 58‑4‑60, continues to be based upon gross income from operation in this State in the same manner as such assessments were calculated before the effective date of this subsection.”

SECTION 2. This act takes effect upon approval by the Governor.

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