

106TH CONGRESS
2D SESSION

H. R. 3850

AN ACT

To amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes.

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To amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Independent Tele-
5 communications Consumer Enhancement Act of 2000”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) The Telecommunications Act of 1996 was
9 enacted to foster the rapid deployment of advanced
10 telecommunications and information technologies
11 and services to all Americans by promoting competi-
12 tion and reducing regulation in telecommunications
13 markets nationwide.

14 (2) The Telecommunications Act of 1996 spe-
15 cifically recognized the unique abilities and cir-
16 cumstances of local exchange carriers with fewer
17 than two percent of the Nation’s subscriber lines in-
18 stalled in the aggregate nationwide.

19 (3) Given the markets two percent carriers typi-
20 cally serve, such carriers are uniquely positioned to
21 accelerate the deployment of advanced services and
22 competitive initiatives for the benefit of consumers
23 in less densely populated regions of the Nation.

24 (4) Existing regulations are typically tailored to
25 the circumstances of larger carriers and therefore

1 often impose disproportionate burdens on two per-
2 cent carriers, impeding such carriers' deployment of
3 advanced telecommunications services and competi-
4 tive initiatives to consumers in less densely popu-
5 lated regions of the Nation.

6 (5) Reducing regulatory burdens on two percent
7 carriers will enable such carriers to devote additional
8 resources to the deployment of advanced services
9 and to competitive initiatives to benefit consumers in
10 less densely populated regions of the Nation.

11 (6) Reducing regulatory burdens on two percent
12 carriers will increase such carriers' ability to respond
13 to marketplace conditions, allowing them to accel-
14 erate deployment of advanced services and competi-
15 tive initiatives to benefit consumers in less densely
16 populated regions of the Nation.

17 (b) PURPOSES.—The purposes of this Act are—

18 (1) to accelerate the deployment of advanced
19 services and the development of competition in the
20 telecommunications industry for the benefit of con-
21 sumers in all regions of the Nation, consistent with
22 the Telecommunications Act of 1996, by reducing
23 regulatory burdens on local exchange carriers with
24 fewer than two percent of the Nation's subscriber
25 lines installed in the aggregate nationwide;

3 (3) to allow such carriers to redirect resources
4 from paying the costs of such regulatory burdens to
5 increasing investment in such initiatives.

6 SEC. 3. DEFINITION.

7 Section 3 of the Communications Act of 1934 (47
8 U.S.C. 153) is amended—

13 “(51) TWO PERCENT CARRIER.—The term ‘two
14 percent carrier’ means an incumbent local exchange
15 carrier within the meaning of section 251(h) that
16 has fewer than two percent of the Nation’s sub-
17 scriber lines installed in the aggregate nationwide.”.

18 SEC. 4. REGULATORY RELIEF FOR TWO PERCENT CAR-
19 RIVERS.

20 Title II of the Communications Act of 1934 is
21 amended by adding at the end thereof a new part IV as
22 follows:

1 **“PART IV—PROVISIONS CONCERNING TWO**
2 **PERCENT CARRIERS**

3 **“SEC. 281. REDUCED REGULATORY REQUIREMENTS FOR**
4 **TWO PERCENT CARRIERS.**

5 “(a) COMMISSION TO TAKE INTO ACCOUNT DIFFERENCES.—In adopting rules that apply to incumbent
6 local exchange carriers (within the meaning of section
7 251(h)), the Commission shall separately evaluate the burden that any proposed regulatory, compliance, or reporting requirements would have on two percent carriers.

11 “(b) EFFECT OF RECONSIDERATION OR WAIVER.—
12 If the Commission adopts a rule that applies to incumbent
13 local exchange carriers and fails to separately evaluate the
14 burden that any proposed regulatory, compliance, or reporting requirement would have on two percent carriers,
15 the Commission shall not enforce the rule against two percent carriers unless and until the Commission performs such separate evaluation.

19 “(c) ADDITIONAL REVIEW NOT REQUIRED.—Nothing in this section shall be construed to require the Commission to conduct a separate evaluation under subsection
21 (a) if the rules adopted do not apply to two percent carriers, or such carriers are exempted from such rules.

24 “(d) SAVINGS CLAUSE.—Nothing in this section shall be construed to prohibit any size-based differentiation among carriers mandated by this Act, chapter 6 of title

1 5, United States Code, the Commission's rules, or any
2 other provision of law.

3 “(e) EFFECTIVE DATE.—The provisions of this sec-
4 tion shall apply with respect to any rule adopted on or
5 after the date of the enactment of this section.

6 **“SEC. 282. LIMITATION OF REPORTING REQUIREMENTS.**

7 “(a) LIMITATION.—The Commission shall not require
8 a two percent carrier—

9 “(1) to file cost allocation manuals or to have
10 such manuals audited, but a two percent carrier that
11 qualifies as a class A carrier shall annually certify
12 to the Commission that the two percent carrier's
13 cost allocation complies with the rules of the Com-
14 mission; or

15 “(2) to file Automated Reporting and Manage-
16 ment Information Systems (ARMIS) reports.

17 “(b) PRESERVATION OF AUTHORITY.—Except as
18 provided in subsection (a), nothing in this Act limits the
19 authority of the Commission to obtain access to informa-
20 tion under sections 211, 213, 215, 218, and 220 with re-
21 spect to two percent carriers.

22 **“SEC. 283. INTEGRATED OPERATION OF TWO PERCENT**
23 **CARRIERS.**

24 “The Commission shall not require any two percent
25 carrier to establish or maintain a separate affiliate to pro-

1 vide any common carrier or noncommon carrier services,
2 including local and interexchange services, commercial mo-
3 bile radio services, advanced services (within the meaning
4 of section 706 of the Telecommunications Act of 1996),
5 paging, Internet, information services or other enhanced
6 services, or other services. The Commission shall not re-
7 quire any two percent carrier and its affiliates to maintain
8 separate officers, directors, or other personnel, network fa-
9 cilities, buildings, research and development departments,
10 books of account, financing, marketing, provisioning, or
11 other operations.

12 **“SEC. 284. PARTICIPATION IN TARIFF POOLS AND PRICE
13 CAP REGULATION.**

14 “(a) NECA POOL.—The participation or withdrawal
15 from participation by a two percent carrier of one or more
16 study areas in the common line tariff administered and
17 filed by the National Exchange Carrier Association or any
18 successor tariff or administrator shall not obligate such
19 carrier to participate or withdraw from participation in
20 such tariff for any other study area.

21 “(b) PRICE CAP REGULATION.—A two percent car-
22 rier may elect to be regulated by the Commission under
23 price cap rate regulation, or elect to withdraw from such
24 regulation, for one or more of its study areas at any time.
25 The Commission shall not require a carrier making an

1 election under this paragraph with respect to any study
2 area or areas to make the same election for any other
3 study area.

4 **“SEC. 285. DEPLOYMENT OF NEW TELECOMMUNICATIONS
5 SERVICES BY TWO PERCENT COMPANIES.**

6 “The Commission shall permit two percent carriers
7 to introduce new interstate telecommunications services by
8 filing a tariff on one day’s notice showing the charges,
9 classifications, regulations and practices therefor, without
10 obtaining a waiver, or make any other showing before the
11 Commission in advance of the tariff filing. The Commis-
12 sion shall not have authority to approve or disapprove the
13 rate structure for such services shown in such tariff.

14 **“SEC. 286. ENTRY OF COMPETING CARRIER.**

15 “(a) **PRICING FLEXIBILITY.**—Notwithstanding any
16 other provision of this Act, any two percent carrier shall
17 be permitted to deaverage its interstate switched or special
18 access rates, file tariffs on one day’s notice, and file con-
19 tract-based tariffs for interstate switched or special access
20 services immediately upon certifying to the Commission
21 that a telecommunications carrier unaffiliated with such
22 carrier is engaged in facilities-based entry within such car-
23 rier’s service area.

24 “(b) **PRICING DEREGULATION.**—Notwithstanding
25 any other provision of this Act, upon receipt by the Com-

1 mission of a certification by a two percent carrier that a
2 local exchange carrier that is not a two percent carrier
3 is engaged in facilities-based entry within the two percent
4 carrier's service area, the Commission shall regulate such
5 two percent carrier as non-dominant, and therefore shall
6 not require the tariffing of the interstate service offerings
7 of such two percent carrier.

8 “(c) PARTICIPATION IN EXCHANGE CARRIER ASSO-
9 CIATION TARIFF.—A two percent carrier that meets the
10 requirements of subsection (a) or (b) of this section with
11 respect to one or more study areas shall be permitted to
12 participate in the common line tariff administered and
13 filed by the National Exchange Carrier Association or any
14 successor tariff or administrator, by electing to include
15 one or more of its study areas in such tariff.

16 “(d) DEFINITIONS.—For purposes of this section:

17 “(1) FACILITIES-BASED ENTRY.—The term ‘fa-
18 cilities-based entry’ means, within the service area of
19 a two percent carrier—

20 “(A) the provision or procurement of local
21 telephone exchange switching capability; and

22 “(B) the provision of local exchange service
23 to at least one unaffiliated customer.

24 “(2) CONTRACT-BASED TARIFF.—The term
25 ‘contract-based tariff’ shall mean a tariff based on

1 a service contract entered into between a two per-
2 cent carrier and one or more customers of such car-
3 rier. Such tariff shall include—

4 “(A) the term of the contract, including
5 any renewal options;

6 “(B) a brief description of each of the
7 services provided under the contract;

8 “(C) minimum volume commitments for
9 each service, if any;

10 “(D) the contract price for each service or
11 services at the volume levels committed to by
12 the customer or customers;

13 “(E) a brief description of any volume dis-
14 counts built into the contract rate structure;
15 and

16 “(F) a general description of any other
17 classifications, practices, and regulations affect-
18 ing the contract rate.

19 “(3) SERVICE AREA.—The term ‘service area’
20 has the same meaning as in section 214(e)(5).

21 **“SEC. 287. SAVINGS PROVISIONS.**

22 “(a) COMMISSION AUTHORITY.—Nothing in this part
23 shall be construed to restrict the authority of the Commis-
24 sion under sections 201 through 205 and 208.

1 “(b) RURAL TELEPHONE COMPANY RIGHTS.—Nothing in this part shall be construed to diminish the rights
2 of rural telephone companies otherwise accorded by this
3 Act, or the rules, policies, procedures, guidelines, and
4 standards of the Commission as of the date of the enactment
5 of this section.”.

7 **SEC. 5. LIMITATION ON MERGER REVIEW**

8 (a) AMENDMENT.—Section 310 of the Communications Act of 1934 (47 U.S.C. 310) is amended by adding
9 at the end the following:

11 “(f) DEADLINE FOR MAKING PUBLIC INTEREST DETERMINATION.—

13 “(1) TIME LIMIT.—In connection with any
14 merger between two percent carriers, or the acquisition,
15 directly or indirectly, by a two percent carrier
16 or its affiliate of the securities or assets of another
17 two percent carrier or its affiliate, the Commission
18 shall make any determination required by subsection
19 (d) of this section or section 214 not later than 60
20 days after the date an application with respect to
21 such merger is submitted to the Commission.

22 “(2) APPROVAL ABSENT ACTION.—If the Commission does not approve or deny an application as
23 described in paragraph (1) by the end of the period
24 specified, the application shall be deemed approved

1 on the day after the end of such period. Any such
2 application deemed approved under this subsection
3 shall be deemed approved without conditions.”.

4 (b) EFFECTIVE DATE.—The provisions of this sec-
5 tion shall apply with respect to any application that is sub-
6 mitted to the Commission on or after the date of the en-
7 actment of this Act. Applications pending with the Com-
8 mission on the date of the enactment of this Act shall be
9 subject to the requirements of this section as if they had
10 been filed with the Commission on the date of the enact-
11 ment of this Act.

12 SEC. 6. TIME LIMITS FOR ACTION ON PETITIONS FOR RE-
13 CONSIDERATION OR WAIVER.

14 (a) AMENDMENT.—Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by adding
15 to the end the following:

17 "(c) EXPEDITED ACTION REQUIRED.—

18 “(1) TIME LIMIT.—Within 90 days after receiv-
19 ing from a two percent carrier a petition for recon-
20 sideration filed under this section or a petition for
21 waiver of a rule, policy, or other Commission re-
22 quirement, the Commission shall issue an order
23 granting or denying such petition. If the Commission
24 fails to act on a petition for waiver subject to the
25 requirements of this section within this 90-day pe-

1 riod, the relief sought in such petition shall be
2 deemed granted. If the Commission fails to act on
3 a petition for reconsideration subject to the require-
4 ments of this section within this 90 day period, the
5 Commission's enforcement of any rule the reconside-
6 ration of which was specifically sought by the peti-
7 tioning party shall be stayed with respect to that
8 party until the Commission issues an order granting
9 or denying such petition.

10 “(2) FINALITY OF ACTION.—Any order issued
11 under paragraph (1), or any grant of a petition for
12 waiver that is deemed to occur as a result of the
13 Commission's failure to act under paragraph (1),
14 shall be a final order and may be appealed.”.

15 (b) EFFECTIVE DATE.—The provisions of this sec-
16 tion shall apply with respect to any petition for reconsider-
17 ation or petition for waiver that is submitted to the Com-
18 mission on or after the date of the enactment of this Act.
19 Pending petitions for reconsideration or petitions for waiv-
20 er shall be subject to the requirements of this section as

1 if they had been filed on the date of the enactment of this
2 Act.

Passed the House of Representatives October 3,
2000.

Attest:

Clerk.