

106TH CONGRESS
2D SESSION

H. R. 3850

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2000

Mrs. CUBIN (for herself, Mr. GORDON, Mr. PICKERING, and Mr. BARRETT of Wisconsin) introduced the following bill; which was referred to the Committee on Commerce

A BILL

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".

1 **SEC. 2. FINDINGS AND PURPOSE.**

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

3 (1) The Telecommunications Act of 1996 was
4 enacted to foster the rapid deployment of advanced
5 telecommunications and information technologies
6 and services to all Americans by promoting competi-
7 tion and reducing regulation in telecommunications
8 markets nationwide.

9 (2) The Telecommunications Act of 1996 spe-
10 cifically recognized the unique abilities and cir-
11 cumstances of local exchange carriers with fewer
12 than two percent of the Nation’s subscriber lines in-
13 stalled in the aggregate nationwide.

14 (3) Given the markets two percent carriers typi-
15 cally serve, such carriers are uniquely positioned to
16 accelerate the deployment of advanced services and
17 competitive initiatives for the benefit of consumers
18 in less densely populated regions of the Nation.

19 (4) Existing regulations are typically tailored to
20 the circumstances of larger carriers and therefore
21 often impose disproportionate burdens on two per-
22 cent carriers, impeding such carriers’ deployment of
23 advanced telecommunications services and competi-
24 tive initiatives to consumers in less densely popu-
25 lated regions of the Nation.

1 (5) Reducing regulatory burdens on two percent
2 carriers will enable such carriers to devote additional
3 resources to the deployment of advanced services
4 and to competitive initiatives to benefit consumers in
5 less densely populated regions of the Nation.

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

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

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

21 (2) to improve such carriers' flexibility to un-
22 dertake such initiatives; and

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

1 **SEC. 3. DEFINITION.**

2 Section 3 of the Communications Act of 1934 (47
3 U.S.C. 153) is amended by adding at the end thereof the
4 following:

5 “(53) **TWO PERCENT CARRIER.**—The term ‘two
6 percent carrier’ means a local exchange carrier with
7 fewer than two percent of the Nation’s subscriber
8 lines installed in the aggregate nationwide, within
9 the meaning of section 251(f)(2) and that meets the
10 requirements of section 251(h).”.

11 **SEC. 4. REGULATORY RELIEF FOR TWO PERCENT CAR-**
12 **RIERS.**

13 Title II of the Communications Act of 1934 is
14 amended by adding at the end thereof a new Part IV as
15 follows:

16 **“PART IV—PROVISIONS CONCERNING TWO**
17 **PERCENT CARRIERS**

18 **“SEC. 281. REDUCED REGULATORY REQUIREMENTS FOR**
19 **TWO PERCENT CARRIERS.**

20 “(a) **COMMISSION TO TAKE INTO ACCOUNT DIF-**
21 **FERENCES.**—In adopting rules that apply to incumbent
22 local exchange carriers, the Commission shall adopt sepa-
23 rate and less burdensome regulatory, compliance, or re-
24 porting requirements, or exemptions from such require-
25 ments, or both, for two percent carriers that take into ac-
26 count the more limited resources available to such carriers

1 and the greater burden such rules impose on such carriers
2 and their customers.

3 “(b) EFFECT OF RECONSIDERATION OR WAIVER.—

4 If the Commission adopts a rule that applies to incumbent
5 local exchange carriers and does not adopt such separate
6 and less burdensome regulatory, compliance, or reporting
7 requirements, or exemptions from such requirements, for
8 two percent carriers and if a two percent carrier or car-
9 riers seek a waiver or reconsideration of the rule as adopt-
10 ed in accordance with the Commission’s rules, the Com-
11 mission shall not enforce the rule against such carrier or
12 carriers unless and until the Commission adopts separate
13 and less burdensome requirements or exemptions in ac-
14 cordance with subsection (a).

15 “(c) ADDITIONAL REGULATION NOT REQUIRED.—

16 Nothing in this section shall be construed to require the
17 Commission to adopt regulatory, compliance, or reporting
18 requirements of any kind for two percent carriers where
19 none currently exist. Nothing in this section shall be con-
20 strued to require any additional regulation to be imposed
21 on commercial mobile radio service.

22 “(d) SAVINGS CLAUSE.—Nothing in this section shall
23 be construed to prohibit any size-based differentiation
24 among carriers mandated by this Act, the Regulatory

1 Flexibility Act, the Commission’s rules, or any other provi-
2 sion 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 enactment of this section.

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

7 “The Commission shall not require a two percent
8 carrier—

9 “(1) to file cost allocation manuals or to have
10 audited or attested such manuals; or

11 “(2) to file Automated Reporting and Manage-
12 ment Information Systems (ARMIS).

13 **“SEC. 283. INTEGRATED OPERATION OF TWO PERCENT**
14 **CARRIERS.**

15 “The Commission shall not adopt or enforce any reg-
16 ulation the purpose or effect of which is to impair the abil-
17 ity of a two percent carrier to integrate its operations in
18 one or more entities, at its discretion. Such operations
19 may include the provision of common carrier and non-
20 common carrier services, including local and interexchange
21 services, commercial mobile radio services, advanced serv-
22 ices within the meaning of section 706 of the Tele-
23 communications Act of 1996, paging, Internet, informa-
24 tion or other enhanced services, or other services. The
25 Commission shall not require companies to which this

1 paragraph applies to maintain separate officers, directors,
2 or other personnel, network facilities, buildings, research
3 and development departments, books of account, financ-
4 ing, marketing, provisioning, or other operations.

5 **“SEC. 284. PARTICIPATION IN TARIFF POOLS AND PRICE**
6 **CAP REGULATION.**

7 “(a) NECA POOL.—The participation or withdrawal
8 from participation by a two percent carrier of one or more
9 study areas in the common line tariff administered and
10 filed by the National Exchange Carrier Association or any
11 successor tariff or administrator shall not obligate such
12 carrier to participate or withdraw from participation in
13 such tariff for any other study area.

14 “(b) PRICE CAP REGULATION.—A two percent car-
15 rier may elect to be regulated by the Commission under
16 price cap rate regulation, or elect to withdraw from such
17 regulation, for one or more of its study areas at any time.
18 The Commission shall not require a carrier making an
19 election under this paragraph with respect to any study
20 area or areas to make the same election for any other
21 study area.

22 **“SEC. 285. REVIEW OF MERGERS.**

23 “Except as required by section 310(f), the Commis-
24 sion shall have no authority to approve, disapprove, delay,
25 condition, or modify the terms of any merger between two

1 percent carriers or their affiliates, or any acquisition, di-
2 rectly or indirectly, by a two percent carrier or its affiliate
3 of the securities or assets of another two percent carrier
4 or its affiliate, if after the merger, the resulting entry
5 would still be a two percent carrier.

6 **“SEC. 286. DEPLOYMENT OF NEW TELECOMMUNICATIONS**
7 **SERVICES BY TWO PERCENT COMPANIES.**

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

16 **“SEC. 287. ENTRY OF COMPETING CARRIER.**

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

1 “(b) PRICING DEREGULATION.—Notwithstanding
2 any other provision of this Act, the Commission shall have
3 no authority to regulate the rates for interstate services
4 provided by a two percent carrier immediately upon certi-
5 fying to the Commission by such carrier that a local ex-
6 change carrier that is not a two percent carrier has en-
7 gaged in facilities-based entry within such two percent car-
8 rier’s service area.

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

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

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

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

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

1 “(2) RESALE-BASED ENTRY.—The term ‘resale-
2 based entry’ means, within the service area of a two
3 percent carrier, the provision of telecommunications
4 service using resale offered under section 251(c).

5 “(3) CONTRACT-BASED TARIFF.—The term
6 ‘contract-based tariff’ shall mean a tariff based on
7 a service contract entered into between a two per-
8 cent carrier and one or more customers of such car-
9 rier. Such tariff shall include—

10 “(A) the term of the contract, including
11 any renewal options;

12 “(B) a brief description of each of the
13 services provided under the contract;

14 “(C) minimum volume commitments for
15 each service, if any;

16 “(D) the contract price for each service or
17 services at the volume levels committed to by
18 the customer or customers;

19 “(E) a brief description of any volume dis-
20 counts built into the contract rate structure;
21 and

22 “(F) a general description of any other
23 classifications, practices, and regulations affect-
24 ing the contract rate.

1 “(4) SERVICE AREA.—The term ‘service area’
2 has the same meaning as in section 214(e)(5).

3 **“SEC. 288. SAVINGS PROVISION.**

4 “Nothing in this part shall be construed to diminish
5 the rights of rural telephone companies otherwise accorded
6 by this Act, or the rules, policies, procedures, guidelines,
7 and standards of the Commission as of the date of enact-
8 ment of this section.”.

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

10 (a) AMENDMENT.—Section 310 of the Communica-
11 tions Act of 1934 (47 U.S.C. 310) is amended by adding
12 at the end the following:

13 “(f) DEADLINE FOR MAKING PUBLIC INTEREST DE-
14 TERMINATION.—

15 “(1) TIME LIMIT.—In connection with any
16 merger between two percent carriers, or the acquisi-
17 tion, directly or indirectly, by a two percent carrier
18 or its affiliate of the securities or assets of another
19 two percent carrier or its affiliate, the Commission
20 shall make the determination required by subsection
21 (d) of this section not later than 45 days after the
22 date the application is submitted to the Commission.

23 “(2) APPROVAL ABSENT ACTION.—If the Com-
24 mission does not approve or deny an application as
25 described in paragraph (1) by the end of the period

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

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

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

15 (a) **AMENDMENT.**—Section 405 of the Communica-
16 tions Act of 1934 (47 U.S.C. 405) is amended by adding
17 to the end the following:

18 “(c) **EXPEDITED ACTION REQUIRED.**—

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

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

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

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

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