

106TH CONGRESS  
2D SESSION

# S. 2572

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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## IN THE SENATE OF THE UNITED STATES

MAY 16, 2000

Mr. BURNS (for himself, Mr. BREAUX, Mr. ENZI, Mr. GRAMS, and Mrs. LINCOLN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Facilitating Access to  
3 Speedy Transmissions for Networks, E-commerce, and  
4 Telecommunications Act” or the “FASTNET Act”.

5 **SEC. 2. FINDINGS AND PURPOSE.**

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

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

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

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

23 (4) Existing regulations are typically tailored to  
24 the circumstances of larger carriers and therefore  
25 often impose disproportionate burdens on two per-  
26 cent carriers, impeding such carriers’ deployment of

1 advanced telecommunications services and competi-  
2 tive initiatives to consumers in less densely popu-  
3 lated regions of the Nation.

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

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

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

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

24 (2) to improve such carriers' flexibility to un-  
25 dertake such initiatives; and



1 rate and less burdensome regulatory, compliance, or re-  
2 porting requirements, or exemptions from such require-  
3 ments, or both, for two percent carriers that take into ac-  
4 count the more limited resources available to such carriers  
5 and the greater burden such rules impose on such carriers  
6 and their customers.

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

19       “(c) ADDITIONAL REGULATION NOT REQUIRED.—  
20 Nothing in this section shall be construed to require the  
21 Commission to adopt regulatory, compliance, or reporting  
22 requirements of any kind for two percent carriers where  
23 none currently exist. Nothing in this section shall be con-  
24 strued to require any additional regulation to be imposed  
25 on commercial mobile radio service.

1 “(d) SAVINGS CLAUSE.—Nothing in this section shall  
2 be construed to prohibit any size-based differentiation  
3 among carriers mandated by this Act, the Regulatory  
4 Flexibility Act, the Commission’s rules, or any other provi-  
5 sion of law.

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

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

10 “The Commission shall not require a two percent  
11 carrier—

12 “(1) to file cost allocation manuals or to have  
13 audited or attested such manuals; or

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

16 **“SEC. 283. INTEGRATED OPERATION OF TWO PERCENT**  
17 **CARRIERS.**

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

1 communications Act of 1996, paging, Internet, informa-  
2 tion or other enhanced services, or other services. The  
3 Commission shall not require companies to which this  
4 paragraph applies to maintain separate officers, directors,  
5 or other personnel, network facilities, buildings, research  
6 and development departments, books of account, financ-  
7 ing, marketing, provisioning, or other operations.

8 **“SEC. 284. PARTICIPATION IN TARIFF POOLS AND PRICE**  
9 **CAP REGULATION.**

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

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

1 **“SEC. 285. REVIEW OF MERGERS.**

2 “Except as required by section 310(f), the Commis-  
3 sion shall have no authority to approve, disapprove, delay,  
4 condition, or modify the terms of any merger between two  
5 percent carriers or their affiliates, or any acquisition, di-  
6 rectly or indirectly, by a two percent carrier or its affiliate  
7 of the securities or assets of another two percent carrier  
8 or its affiliate, if after the merger, the resulting entry  
9 would still be a two percent carrier.

10 **“SEC. 286. DEPLOYMENT OF NEW TELECOMMUNICATIONS**  
11 **SERVICES BY TWO PERCENT COMPANIES.**

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

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

21 “(a) **PRICING FLEXIBILITY.**—Notwithstanding any  
22 other provision of this Act, any two percent carrier shall  
23 be permitted to deaverage its interstate switched or special  
24 access rates, file tariffs on one day’s notice and file con-  
25 tract-based tariffs for interstate switched or special access  
26 services immediately upon certifying to the Commission



1 that a telecommunications carrier unaffiliated with such  
 2 carrier has engaged in facilities-based entry or resale-  
 3 based entry within such carrier's service area.

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

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

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

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

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

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

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

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

12                   “(A) the term of the contract, including  
13                   any renewal options;

14                   “(B) a brief description of each of the  
15                   services provided under the contract;

16                   “(C) minimum volume commitments for  
17                   each service, if any;

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

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

1           “(F) a general description of any other  
2           classifications, practices, and regulations affect-  
3           ing the contract rate.

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

6   **“SEC. 288. SAVINGS PROVISION.**

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

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

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

16          “(f) DEADLINE FOR MAKING PUBLIC INTEREST DE-  
17          TERMINATION.—

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

1           “(2) APPROVAL ABSENT ACTION.—If the Com-  
 2           mission does not approve or deny an application as  
 3           described in paragraph (1) by the end of the period  
 4           specified, the application shall be deemed approved  
 5           on the day after the end of such period. Any such  
 6           application deemed approved under this subsection  
 7           shall be deemed approved without conditions.”.

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

16 **SEC. 6. TIME LIMITS FOR ACTION ON PETITIONS FOR**  
 17 **RECONSIDERATION OR WAIVER.**

18          (a) AMENDMENT.—Section 405 of the Communica-  
 19          tions Act of 1934 (47 U.S.C. 405) is amended by adding  
 20          to the end the following:

21           “(c) EXPEDITED ACTION REQUIRED.—

22           “(1) TIME LIMIT.—Within 90 days after receiv-  
 23           ing from a two percent carrier a petition for recon-  
 24           sideration filed under this section or a petition for  
 25           waiver of a rule, policy, or other Commission re-

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

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

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

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

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