106TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
106–926

INDEPENDENT TELECOMMUNICATIONS CONSUMER ENHANCEMENT ACT OF 2000

OCTOBER 3, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BLILEY, from the Committee on Commerce, submitted the following

REPORT

[To accompany H.R. 3850]

The Committee on Commerce, to whom was referred the bill (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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Telecommunications Consumer Enhancement Act of 2000".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Telecommunications Act of 1996 was enacted to foster the rapid deployment of advanced telecommunications and information technologies and services to all Americans by promoting competition and reducing regulation in telecommunications markets nationwide.

(2) The Telecommunications Act of 1996 specifically recognized the unique abilities and circumstances of local exchange carriers with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide.

(3) Given the markets two percent carriers typically serve, such carriers are uniquely positioned to accelerate the deployment of advanced services and competitive initiatives for the benefit of consumers in less densely populated regions of the Nation.

(4) Existing regulations are typically tailored to the circumstances of larger carriers and therefore often impose disproportionate burdens on two percent carriers, impeding such carriers' deployment of advanced telecommunications services and competitive initiatives to consumers in less densely populated regions of the Nation.

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

(6) Reducing regulatory burdens on two percent carriers will increase such carriers' ability to respond to marketplace conditions, allowing them to accelerate deployment of advanced services and competitive initiatives to benefit consumers in less densely populated regions of the Nation.

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

(1) to accelerate the deployment of advanced services and the development of competition in the telecommunications industry for the benefit of consumers in all regions of the Nation, consistent with the Telecommunications Act of 1996, by reducing regulatory burdens on local exchange carriers with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide;

(2) to improve such carriers' flexibility to undertake such initiatives; and

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

SEC. 3. DEFINITION.

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

(1) by redesignating paragraphs (51) and (52) as paragraphs (52) and (53), respectively; and

(2) by inserting after paragraph (50) the following:

"(51) TWO PERCENT CARRIER.—The term 'two percent carrier' means an incumbent local exchange carrier within the meaning of section 251(h) that has fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide.".

SEC. 4. REGULATORY RELIEF FOR TWO PERCENT CARRIERS.

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

"PART IV—PROVISIONS CONCERNING TWO PERCENT CARRIERS

"SEC. 281. REDUCED REGULATORY REQUIREMENTS FOR TWO PERCENT CARRIERS.

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

"(b) EFFECT OF RECONSIDERATION OR WAIVER.—If the Commission adopts a rule that applies to incumbent local exchange carriers and fails to separately evaluate the burden that any proposed regulatory, compliance, or reporting requirement would have on two percent carriers, the Commission shall not enforce the rule

against two percent carriers unless and until the Commission performs such separate evaluation.

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

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

"(e) EFFECTIVE DATE.—The provisions of this section shall apply with respect to any rule adopted on or after the date of enactment of this section.

"SEC. 282. LIMITATION OF REPORTING REQUIREMENTS.

"(a) LIMITATION.—The Commission shall not require a two percent carrier—

"(1) to file cost allocation manuals or to have such manuals audited, but a two percent carrier that qualifies as a class A carrier shall annually certify to the Commission that the two percent carrier's cost allocation complies with the rules of the Commission; or

"(2) to file Automated Reporting and Management Information Systems (ARMIS) reports.

"(b) PRESERVATION OF AUTHORITY.—Except as provided in subsection (a), nothing in this Act limits the authority of the Commission to obtain access to information under sections 211, 213, 215, 218, and 220 with respect to two percent carriers.

"SEC. 283. INTEGRATED OPERATION OF TWO PERCENT CARRIERS.

"The Commission shall not require any two percent carrier to establish or maintain a separate affiliate to provide any common carrier or noncommon carrier services, including local and interexchange services, commercial mobile radio services, advanced services (within the meaning of section 706 of the Telecommunications Act of 1996), paging, Internet, information services or other enhanced services, or other services. The Commission shall not require any two percent carrier and its affiliates to maintain separate officers, directors, or other personnel, network facilities, buildings, research and development departments, books of account, financing, marketing, provisioning, or other operations.

"SEC. 284. PARTICIPATION IN TARIFF POOLS AND PRICE CAP REGULATION.

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

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

"SEC. 285. DEPLOYMENT OF NEW TELECOMMUNICATIONS SERVICES BY TWO PERCENT COMPANIES.

"The Commission shall permit two percent carriers to introduce new interstate telecommunications services by filing a tariff on one day's notice showing the charges, classifications, regulations and practices therefor, without obtaining a waiver, or make any other showing before the Commission in advance of the tariff filing. The Commission shall not have authority to approve or disapprove the rate structure for such services shown in such tariff.

"SEC. 286. ENTRY OF COMPETING CARRIER.

"(a) PRICING FLEXIBILITY.—Notwithstanding any other provision of this Act, any two percent carrier shall be permitted to deaverage its interstate switched or special access rates, file tariffs on one day's notice, and file contract-based tariffs for interstate switched or special access services immediately upon certifying to the Commission that a telecommunications carrier unaffiliated with such carrier is engaged in facilities-based entry within such carrier's service area.

"(b) PRICING DEREGULATION.—Notwithstanding any other provision of this Act, upon receipt by the Commission of a certification by a two percent carrier that a local exchange carrier that is not a two percent carrier is engaged in facilities-based entry within the two percent carrier's service area, the Commission shall regulate such two percent carrier as non-dominant, and therefore shall not require the tariffing of the interstate service offerings of such two percent carrier.

"(c) PARTICIPATION IN EXCHANGE CARRIER ASSOCIATION TARIFF.—A two percent carrier that meets the requirements of subsection (a) or (b) of this section with re-

spect to one or more study areas shall be permitted to participate in the common line tariff administered and filed by the National Exchange Carrier Association or any successor tariff or administrator, by electing to include one or more of its study areas in such tariff.

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

"(1) FACILITIES-BASED ENTRY.—The term 'facilities-based entry' means, within the service area of a two percent carrier—

"(A) the provision or procurement of local telephone exchange switching capability; and

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

"(2) CONTRACT-BASED TARIFF.—The term 'contract-based tariff' shall mean a tariff based on a service contract entered into between a two percent carrier and one or more customers of such carrier. Such tariff shall include—

"(A) the term of the contract, including any renewal options;

"(B) a brief description of each of the services provided under the contract;

"(C) minimum volume commitments for each service, if any;

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

"(E) a brief description of any volume discounts built into the contract rate structure; and

"(F) a general description of any other classifications, practices, and regulations affecting the contract rate.

"(3) SERVICE AREA.—The term 'service area' has the same meaning as in section 214(e)(5).

"SEC. 287. SAVINGS PROVISIONS.

"(a) COMMISSION AUTHORITY.—Nothing in this part shall be construed to restrict the authority of the Commission under sections 201 through 205 and 208.

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

SEC. 5. LIMITATION ON MERGER REVIEW

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

"(f) DEADLINE FOR MAKING PUBLIC INTEREST DETERMINATION.—

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

"(2) APPROVAL ABSENT ACTION.—If the Commission does not approve or deny an application as described in paragraph (1) by the end of the period specified, the application shall be deemed approved on the day after the end of such period. Any such application deemed approved under this subsection shall be deemed approved without conditions.".

(b) EFFECTIVE DATE.—The provisions of this section shall apply with respect to any application that is submitted to the Commission on or after the date of enactment of this Act. Applications pending with the Commission on the date of enactment of this Act shall be subject to the requirements of this section as if they had been filed with the Commission on the date of enactment of this Act.

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

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

"(c) EXPEDITED ACTION REQUIRED.—

"(1) TIME LIMIT.—Within 90 days after receiving from a two percent carrier a petition for reconsideration filed under this section or a petition for waiver of a rule, policy, or other Commission requirement, the Commission shall issue an order granting or denying such petition. If the Commission fails to act on a petition for waiver subject to the requirements of this section within this 90-day period, the relief sought in such petition shall be deemed granted. If the Commission fails to act on a petition for reconsideration subject to the requirements of this section within this 90 day period, the Commission's enforcement of any rule the reconsideration of which was specifically sought by the peti-

tioning party shall be stayed with respect to that party until the Commission issues an order granting or denying such petition.

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

(b) EFFECTIVE DATE.—The provisions of this section shall apply with respect to any petition for reconsideration or petition for waiver that is submitted to the Commission on or after the date of enactment of this Act. Pending petitions for reconsideration or petitions for waiver shall be subject to the requirements of this section as if they had been filed on the date of enactment of this Act.

PURPOSE AND SUMMARY

The purpose of H.R. 3850, the Independent Telecommunications Consumer Enhancement Act of 2000, is to deregulate two percent telecommunications carriers so they may more effectively compete in rural and less densely populated areas.

BACKGROUND AND NEED FOR LEGISLATION

There is an ongoing debate about whether there is sufficient competition in the provision of telecommunications in smaller markets to warrant a reduction in FCC regulation for carriers with less than two percent of the installed subscriber lines in the country. The "two percent carriers" argue that the FCC regulations are too burdensome for smaller carriers of their size and that strong competition make many FCC regulations no longer necessary.

In February 1998, the Independent Telephone and Telecommunications Alliance (ITTA), a group of 14 mid-size incumbent local exchange carriers (ILECs) that each have less than two percent of the nation's installed subscriber lines, brought a proceeding before the FCC requesting forbearance from a number of regulations. In May 1999, the FCC released six orders which granted ITTA some of its requests and denied others. H.R. 3850 would legislatively remedy some of the items denied by the FCC and would, additionally, relieve other regulatory burdens imposed on two percent carriers.

Supporters of the legislation believe this bill is necessary to protect two percent ILECs. They argue that FCC regulations are written primarily for the large regional Bell operating companies (RBOCs), and consequently, the regulations have a disproportionate financial and regulatory impact on two percent carriers. For instance, ITTA contends that the "cost allocation manual" reporting requirements cost the two percent carriers as much as $4.00 per customer, while it costs the RBOCs approximately $0.04 per customer. Despite the fact that two percent carriers do not pose the threat to competition they did prior to 1996, two percent carriers also believe that FCC regulations place a greater operation burden on smaller carriers. As a result, two percent carriers argue that these regulatory burdens prevent them from being fully competitive in a very competitive environment.

The FCC, on the other hand, opposed much of H.R. 3850, arguing that the bill goes too far in its effort to reduce regulatory burdens on two percent carriers. For in stance, the bill contains a provision requiring the FCC to take action on waiver or reconsideration petitions filed by two percent carriers within 90 days. The FCC argued that it lacks the resources, particularly in light of other statutory mandates (such as section 271 proceedings), to meet the obligations set out in the bill. The FCC also claimed that it is planning to take

steps to address some of the issues raised in the bill with a notice of proposed rulemaking in fall 2000.

HEARINGS

The Subcommittee on July 20, 2000 held a hearing on H.R. 3850, the Independent Telecommunications Consumer Protection Act. The Subcommittee received testimony from: Carol E. Mattey, Deputy Chief, Common Carrier Bureau, Federal Communications Commission; Larry F. Darby, Darby Associates, Communications Consultants; John Sumpter, Vice President of Regulatory Affairs, Pac-West Telecomm, Inc., on behalf of Association for Local Telecommunications Services; Jack Mueller, Cincinnati Telephone Company/BroadWing, on behalf of Independent Telephone and Telecommunications Alliance; and David Cole, Senior Vice President of Operations Support, CenturyTel, Inc.

COMMITTEE CONSIDERATION

On September 14, 2000, the Subcommittee on Telecommunications, Trade, and Consumer Protection was discharged from the further consideration of H.R. 3850. The Full Committee met in open markup session on September 14, 2000, and ordered H.R. 3850 reported to the House, with an amendment, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 3850 reported. A motion by Mr. Bliley to order H.R. 3850 reported to the House, with amendment, was agreed to by a voice vote.

The following amendment was agreed to by a voice vote:

> An amendment in the nature of a substitute by Mr. Tauzin, No. 1, requiring the FCC to evaluate the burden of any future regulation on two percent telecommunications carriers, requiring the FCC to approve a merger between two percent telecommunications carriers within sixty days, and making other technical changes.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM OVERSIGHT FINDINGS

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3850, the Independent Consumer Enhancement Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee includes the following estimate of the costs of this legislation:

The Committee estimates that H.R. 3850 would not have a significant impact on the Federal budget because it would not significantly expand the regulatory burdens on Federal agencies. The Federal Communications Commission may realize some increased rulemaking costs, but the Committee estimates that these would not exceed $500,000 per year in each of the next five fiscal years. The bill will not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Although requested on September 14, 2000, the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not timely received by the Committee.

FEDERAL MANDATES STATEMENT

The estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not timely received by the Committee. Accordingly, the Committee finds that the legislation does not contain intergovernment or private sector mandates as defined by the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the "Independent Telecommunications Consumer Enhancement Act of 2000."

Section 2. Findings and purpose

This section makes certain Congressional findings and describes the purposes of the bill.

Section 3. Definition

This section defines the term "two percent carrier" as an incumbent local exchange carrier within the meaning of section 251(h) that has fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide.

Section 4. Regulatory relief for two percent carriers

Section 4 of the bill adds a new section 281 that requires the FCC to separately evaluate the burden that any proposed regulation would have on two percent carriers. If the FCC fails to separately evaluate two percent carriers, the Commission is not permitted to enforce the rule against two percent carriers. The bill makes it clear that if the proposed regulation does not apply to two percent carriers, a separate evaluation is not required. The effective date of this section applies to any rule adopted on or after the date of enactment of the bill.

New section 282 exempts two percent carriers from filing or auditing cost allocation manuals and annual Automated Reporting and Management Information Systems reports. Two percent carriers that qualify as Class A carriers must annually certify that they are complying with cost allocation rules. Except for the provisions contained in section 282, nothing in this bill is meant to limit the authority of the FCC to request or obtain access to information currently allowed under the Communications Act of 1934 (Communications Act; 47 U.S.C. § 151 et seq.).

New section 283 prevents the FCC from requiring a two percent carrier to establish a separate affiliate to provide any common carrier or noncommon carrier service, including local and interexchange services, commercial mobile radio service, advanced services (within the meaning of section 706 of the Communications Act), paging, Internet, information service or other enhanced services.

New section 284 eliminates the "all or nothing rules" relating to the NECA common line tariff pool and price can regulations. This section allows multiple operating companies of two percent carriers to participate in one or more study areas for NECA's common line tariff, and elect to be regulated under the price cap scheme for one or more study areas.

New section 285 allows two percent carriers to introduce new interstate services by filing a tariff with one day's notice, without obtaining a waiver, and prevents the FCC from approving or disapproving the rate structure. Nothing in this section restricts the authority of the FCC under sections 201 through 205 and 208 of the Communications Act.

New section 286 allows a two percent carrier to deaverage its interstate switched or special access rates, file a tariff with one day's notice, or file contract-based tariffs for intestate switched or special access services upon certifying that the carrier faces a facilities-based entrant. Upon certifying that a two percent carrier faces a facilities-based entrant, the FCC must regulate a two percent carrier as a non-dominant carrier, and therefore, shall not require the tariffing of the interstate service offerings. The right to participate in the NECA common line tariff is preserved in both instances. The term "Facilities-based entry" is defined as the provision or procurement of local telephone exchange switching capability, and the provision of local exchange service to at least one unaffiliated customer.

New section 287 includes a savings provision providing that nothing in this section is to be construed to diminish the rights of rural telephone companies under the Communications Act.

Section 5. Limitation on merger review

This section amends section 310 of the Communications Act (47 U.S.C. § 310) by adding a deadline for making a public interest determination. This provision was intended to apply in instances where a merger between two percent carriers results in a two percent carrier. The FCC, in making a determination under section 214 or 310, must make a determination not later than 60 days after the date an application is filed with the FCC. If the FCC fails to approve or deny the application within 60 days, the merger application is deemed approved without conditions. This section is effective with respect to any application submitted to the FCC on or after the date of enactment. Merger applications pending at the FCC on the date of enactment shall be subject to this section as if they had been filed with the FCC on the date of enactment.

Section 6. Time limits for action on petitions for reconsideration or waiver

Section 6 amends section 405 of the Communications Act (47 U.S.C. § 405) by requiring the FCC to act on waiver and reconsideration petitions filed by two percent carriers within 90 days of filing. If no action is taken on a waiver petition within 90 days, the petition is deemed granted. If no action is taken on a petition for reconsideration within 90 days, the Commission's enforcement of any rule the reconsideration of which was specifically sought shall be stayed with respect to that party until the Commission issues an order granting or denying the petition.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

TITLE I—GENERAL PROVISIONS

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SEC. 3. DEFINITIONS.

For the purposes of this Act, unless the context otherwise requires—

(1) * * *

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(51) TWO PERCENT CARRIER.—The term "two percent carrier" means an incumbent local exchange carrier within the meaning of section 251(h) that has fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide.

[(51)**]** *(52)* UNITED STATES.—The term "United States" means the several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone.

[(52)**]** *(53)* WIRE COMMUNICATION.—The term "wire communication" or "communication by wire" means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

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TITLE II—COMMON CARRIERS

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PART IV—PROVISIONS CONCERNING TWO PERCENT CARRIERS

SEC. 281. REDUCED REGULATORY REQUIREMENTS FOR TWO PERCENT CARRIERS.

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

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

(c) ADDITIONAL REVIEW NOT REQUIRED.—Nothing in this section shall be construed to require the Commission to conduct a separate

evaluation under subsection (a) if the rules adopted do not apply to two percent carriers, or such carriers are exempted from such rules.

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

(e) EFFECTIVE DATE.—The provisions of this section shall apply with respect to any rule adopted on or after the date of enactment of this section.

SEC. 282. LIMITATION OF REPORTING REQUIREMENTS.

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

(1) to file cost allocation manuals or to have such manuals audited, but a two percent carrier that qualifies as a class A carrier shall annually certify to the Commission that the two percent carrier's cost allocation complies with the rules of the Commission; or

(2) to file Automated Reporting and Management Information Systems (ARMIS) reports.

(b) PRESERVATION OF AUTHORITY.—Except as provided in subsection (a), nothing in this Act limits the authority of the Commission to obtain access to information under sections 211, 213, 215, 218, and 220 with respect to two percent carriers.

SEC. 283. INTEGRATED OPERATION OF TWO PERCENT CARRIERS.

The Commission shall not require any two percent carrier to establish or maintain a separate affiliate to provide any common carrier or noncommon carrier services, including local and interexchange services, commercial mobile radio services, advanced services (within the meaning of section 706 of the Telecommunications Act of 1996), paging, Internet, information services or other enhanced services, or other services. The Commission shall not require any two percent carrier and its affiliates to maintain separate officers, directors, or other personnel, network facilities, buildings, research and development departments, books of account, financing, marketing, provisioning, or other operations.

SEC. 284. PARTICIPATION IN TARIFF POOLS AND PRICE CAP REGULATION.

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

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

SEC. 285. DEPLOYMENT OF NEW TELECOMMUNICATIONS SERVICES BY TWO PERCENT COMPANIES.

The Commission shall permit two percent carriers to introduce new interstate telecommunications services by filing a tariff on one day's notice showing the charges, classifications, regulations and

practices therefor, without obtaining a waiver, or make any other showing before the Commission in advance of the tariff filing. The Commission shall not have authority to approve or disapprove the rate structure for such services shown in such tariff.

SEC. 286. ENTRY OF COMPETING CARRIER.

(a) PRICING FLEXIBILITY.—Notwithstanding any other provision of this Act, any two percent carrier shall be permitted to deaverage its interstate switched or special access rates, file tariffs on one day's notice, and file contract-based tariffs for interstate switched or special access services immediately upon certifying to the Commission that a telecommunications carrier unaffiliated with such carrier is engaged in facilities-based entry within such carrier's service area.

(b) PRICING DEREGULATION.—Notwithstanding any other provision of this Act, upon receipt by the Commission of a certification by a two percent carrier that a local exchange carrier that is not a two percent carrier is engaged in facilities-based entry within the two percent carrier's service area, the Commission shall regulate such two percent carrier as non-dominant, and therefore shall not require the tariffing of the interstate service offerings of such two percent carrier.

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

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

(1) FACILITIES-BASED ENTRY.—The term "facilities-based entry" means, within the service area of a two percent carrier—

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

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

(2) CONTRACT-BASED TARIFF.—The term "contract-based tariff" shall mean a tariff based on a service contract entered into between a two percent carrier and one or more customers of such carrier. Such tariff shall include—

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

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

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

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

(E) a brief description of any volume discounts built into the contract rate structure; and

(F) a general description of any other classifications, practices, and regulations affecting the contract rate.

(3) SERVICE AREA.—The term "service area" has the same meaning as in section 214(e)(5).

SEC. 287. SAVINGS PROVISIONS.

(a) COMMISSION AUTHORITY.—Nothing in this part shall be construed to restrict the authority of the Commission under sections 201 through 205 and 208.

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

TITLE III—PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

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SEC. 310. LIMITATION ON HOLDING AND TRANSFER OF LICENSES.

(a) * * *

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(f) DEADLINE FOR MAKING PUBLIC INTEREST DETERMINATION.—

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

(2) APPROVAL ABSENT ACTION.—If the Commission does not approve or deny an application as described in paragraph (1) by the end of the period specified, the application shall be deemed approved on the day after the end of such period. Any such application deemed approved under this subsection shall be deemed approved without conditions.

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TITLE IV—PROCEDURAL AND ADMINISTRATIVE PROVISIONS

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SEC. 405. RECONSIDERATIONS.

(a) * * *

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(c) EXPEDITED ACTION REQUIRED.—

(1) TIME LIMIT.—Within 90 days after receiving from a two percent carrier a petition for reconsideration filed under this section or a petition for waiver of a rule, policy, or other Commission requirement, the Commission shall issue an order granting or denying such petition. If the Commission fails to act on a petition for waiver subject to the requirements of this section within this 90-day period, the relief sought in such peti-

tion shall be deemed granted. If the Commission fails to act on a petition for reconsideration subject to the requirements of this section within this 90 day period, the Commission's enforcement of any rule the reconsideration of which was specifically sought by the petitioning party shall be stayed with respect to that party until the Commission issues an order granting or denying such petition.

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

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