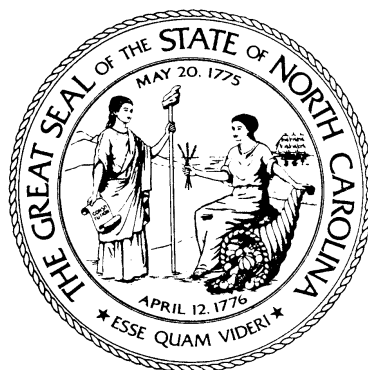


**THE STATUS OF TELECOMMUNICATIONS SERVICE  
IN A CHANGING COMPETITIVE ENVIRONMENT  
REQUIRED PURSUANT TO SECTION 6.1 OF HOUSE BILL 161**

**DATE DUE: OCTOBER 1, 2011  
SUBMITTED: SEPTEMBER 29, 2011**

**RECEIVED BY  
THE JOINT LEGISLATIVE  
COMMISSION ON GOVERNMENTAL OPERATIONS**



**SUBMITTED BY  
THE UTILITIES COMMISSION**



## State of North Carolina Utilities Commission

COMMISSIONERS  
EDWARD S. FINLEY, JR., Chairman  
LORINZO L. JOYNER  
WILLIAM T. CULPEPPER, III  
BRYAN E. BEATTY

4325 Mail Service Center  
Raleigh, N. C. 27699-4325

COMMISSIONERS  
SUSAN W. RABON  
TONOLA D. BROWN-BLAND  
LUCY T. ALLEN

September 29, 2011

Ms. Kristin Walker  
Senior Fiscal Analyst, Natural and Economic Resources Team  
Fiscal Research Division  
North Carolina General Assembly  
State Legislative Office Building  
Raleigh, North Carolina 27601-1030

Dear Ms. Walker:

The Utilities Commission hereby presents an electronic copy of its 2011 Report to the Joint Legislative Commission on Governmental Operations regarding the status of telecommunications service in a changing competitive environment.

The report is being provided pursuant to Section 6.1 of House Bill 161 (Chapter 27 of the 1995 Session Laws) requiring that "[O]n October 1, 1997, and every two years thereafter, the Utilities Commission and the Public Staff shall each provide a report to the Joint Legislative Utility Review Committee [now the Joint Legislative Commission on Governmental Operations] summarizing the procedures conducted pursuant to the provisions of this act during the preceding two years ending on July 1 immediately preceding the report date." Section 6.1 also directs the reports to recommend whether the provisions of House Bill 161 "should be continued, repealed, or amended." As noted in Part IX of the Report, the Commission is proposing that the General Assembly repeal Section 6.1 of House Bill 161, but recommends that all of the other provisions of House Bill 161 remain in place, without amendment.

Thank you for your assistance.

Respectfully submitted,

A handwritten signature in black ink that reads "Edward S. Finley, Jr." with a stylized flourish at the end.

Edward S. Finley, Jr.  
Chairman

ESFjr/bcp

cc: Robert P. Gruber, Executive Director, Public Staff  
The Honorable Roy A. Cooper, Attorney General

## TABLE OF CONTENTS

<u>PART</u>		<u>Page</u>
	Letter of Transmittal	
I.	Introduction	1
II.	Regulation of Incumbent Local Exchange Companies	2
III.	Arbitrations and Interconnection Agreements	4
IV.	Competing Local Provider Certifications	5
V.	Quality of Service	6
VI.	Numbering	8
VII.	Senate Bill 343 2011 Newly Created Regulatory Alternative	9
VIII.	Intrastate Switched Access Charges	10
IX.	Recommendations	10
X.	Appendices:	
	<b>Appendix A:</b> Website Service Quality Report for the 12 Months Ended March 31, 2011	
	<b>Appendix B:</b> Senate Bill 343 – Session Law 2011-52 - <i>An Act Establishing the Communications Regulatory Reform and Investment Act of 2011</i>	

## **PART I.**

### ***INTRODUCTION***

On April 6, 1995, the General Assembly ratified House Bill 161 (HB 161). Section 6.1 of HB 161 provides that:

On October 1, 1997, and every two years thereafter, the Utilities Commission and the Public Staff shall each provide a report to the Joint Legislative Utility Review Committee [now the Joint Legislative Commission on Governmental Operations] summarizing the procedures pursuant to the provisions of this act during the preceding two years ending on July 1 immediately preceding the report date. The reports shall recommend whether the provisions of this act should be continued, repealed, or amended.

This Report has been prepared and is being submitted in compliance with this Section.

As with previous Reports, the North Carolina Utilities Commission (Utilities Commission or Commission) has not confined this Report to matters arising out of North Carolina's HB 161 alone but has addressed certain matters arising out of federal regulation pursuant to the Telecommunications Act of 1996 (TA96). This is necessary in order to gain a complete perspective on the ongoing evolution in telecommunications regulation.

It has now been more than 16 years since the passage of HB 161, and the regulatory environment in which the Utilities Commission operates in telecommunications has evolved considerably. In addition to intramodal landline competition from competing local providers (CLPs), incumbent local exchange companies (ILECs) under our jurisdiction face intermodal competition from wireless providers, cable providers, and Voice-over-Internet Protocol (VoIP) providers. TA96 vests in the Commission authority to conduct arbitrations with respect to disputed terms and conditions in interconnection agreements and to approve those that have been negotiated; but the Federal Communications Commission (FCC) is empowered to promulgate the general framework in which those arbitrations and many other telecommunications matters take place. Because of provisions in federal and/or state law, the Commission does not regulate either wireless service, cable television, long distance service, or broadband service, reflecting a movement toward greater reliance on market forces.

Finally, after submitting these telecommunications reports over the past decade and a half, the Commission believes it is time to reconsider the usefulness of this requirement and to consider abolishing the biennial reporting requirement as outlined in Section 6.1. The last decade and a half have been transformative in the telecommunications industry and there has been a corresponding transformation in the

kind and degree of regulation of that sector that the General Assembly has authorized. The new model for regulation has been universally in the direction of more reliance on market forces and less on traditional forms of regulation. This approach has generally worked well for both providers and their customers. Accordingly, the Commission believes that a biennial report to the General Assembly is no longer necessary. The Commission is respectfully proposing that the General Assembly rescind Section 6.1.

## **PART II.**

### ***REGULATION OF INCUMBENT LOCAL EXCHANGE COMPANIES***

There are currently 17 incumbent local exchange companies, or ILECs, in North Carolina. Each ILEC, by its choice, is regulated based on one of four different types of regulation: (1) a price regulation plan; (2) rate-of-return; (3) Subsection (h) of G.S. §62-133.5; or (4) Subsection (l) of G.S. §62-133.5.

#### **Price Plan Regulation**

Since HB 161 became effective on July 1, 1995, the Utilities Commission has authorized Price Regulation Plans for the following 13 regulated ILECs: Barnardsville Telephone Company (Barnardsville), Carolina Telephone and Telegraph Company (CenturyLink), Central Telephone Company (Centurylink), Citizens Telephone Company, d/b/a Comporium (Comporium), Windstream Concord Telephone, Inc. (Windstream Concord), Windstream Lexcom Communications, Inc. (Windstream Lexcom), Mebtel, Inc. (Mebtel), North State Telephone Company, d/b/a North State Communications (North State), Randolph Telephone Company<sup>1</sup> (Randolph), Saluda Mountain Telephone Company (Saluda Mountain), Service Telephone Company (Service), Frontier Communications Company (Frontier; f/k/a Verizon South, Inc.<sup>2</sup>), and Windstream, Inc. (Windstream, f/k/a ALLTEL).

All 13 Commission-approved price regulation plans contain a section which institutes a self-enforcing penalties mechanism wherein a company's yearly average

---

<sup>1</sup> The Commission notes that on September 2, 2011, Randolph Telephone Company filed a Petition for Authority to Discontinue the Provision of Service in North Carolina. Randolph Telephone Company stated in its Petition that it is seeking authorization from the Commission to transfer all of Randolph Telephone Company's assets to its parent, Randolph Telephone Membership Corporation. Randolph Telephone Company noted that, as of July 31, 2011, Randolph Telephone Company served 3,575 access lines in its only exchange located in Liberty, North Carolina. Randolph Telephone Company stated that it desires to affect the transfer as of December 31, 2011.

<sup>2</sup> On May 13, 2009, Verizon Communications Inc. (Verizon) and Frontier Communications Corporation (Frontier) announced an agreement involving a series of transactions which resulted in the transfer of control of substantially all of the local exchange operations of Verizon South Inc. (Verizon South), a subsidiary of Verizon, in North Carolina to Frontier. By Commission Order dated November 30, 2009, Frontier was designated as the ILEC for the study area of Verizon South, other than the Knotts Island exchange. Further, Frontier was allowed to adopt the price regulation plan of Verizon South, except as to the Knotts Island exchange.

statewide service results must meet ten (Barnardsville, Comporium, Windstream Concord, Frontier, Windstream Lexcom, Mebtel, Randolph, Saluda Mountain, Service, and Windstream) or eight (CenturyLink (both Carolina and Central), and North State) service quality objectives to avoid the imposition of monetary penalties.

Further, the following chart summarizes the pricing constraints for basic local residential and business exchange service in each of the 13 price regulation plans:

Company	Basic Residential Service Basket	Pricing Rules For Basic Residential Service <sup>3</sup>	Basic Business Service Basket	Pricing Rules For Basic Business Service <sup>3</sup>
Barnardsville	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%
Centurylink (Carolina)	Basic	% change in inflation / 12%	Basic	% change in inflation / 12%
Centurylink (Central)	Basic	% change in inflation / 12%	Basic	% change in inflation / 12%
Comporium	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%
Windstream Concord	Moderate	1.0 x inflation / 12%	Moderate	1.0 x inflation / 12%
Windstream Lexcom	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%
Mebtel	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%
North State	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%
Randolph	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%
Saluda Mountain	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%
Service	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%
Frontier	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%
Windstream	Moderate	1.5 x inflation / 10%	Moderate	1.5 x inflation / 10%

### **Rate-of-Return Regulation**

Two ILECs remain under the traditional form of rate-of-return regulation: Ellerbe Telephone Company (Ellerbe) and Pineville Telephone Company (Pineville).

### **Subsection (h) Regulation**

Two ILECs have filed a notice with the Commission that they have elected to be regulated under G.S. §62-133.5(h), also known as Subsection (h) regulation. Under Subsection (h) regulation, the Commission cannot regulate the terms, conditions, rates, or availability of a carrier's intrastate retail services; however, the carrier must continue to offer stand-alone basic residential lines to all customers who choose to subscribe to that service and the rate for that service cannot increase by more than the percentage increase for the prior year in the GDP-PI.

Additionally, the Commission maintains regulatory authority over several issues of a Subsection (h) carrier including the authority over: (1) arbitration proceedings; (2) the rates, terms, and conditions for unbundled network elements; (3) enforcement of interconnection agreements; (4) enforcement of federal requirements relating to

<sup>3</sup> Price increases are limited annually, in the aggregate, as presented first in the chart. Price increases for individual rate elements are limited as presented secondly in the chart.

marketing activities; (5) the telecommunications relay service; (6) the Lifeline and Link-Up programs; (7) universal service funds; (8) carrier of last resort obligations; (9) the management of numbering resources; (10) switched access and intercarrier compensation; and (11) the rates, terms, and conditions of wholesale services.

BellSouth Telecommunications, Inc. (d/b/a AT&T of North Carolina) filed its Subsection (h) notice on October 5, 2009 (See Docket No. P-55, Sub 1013M). Verizon South, Inc., d/b/a Verizon North Carolina (Virginia) (Verizon) filed its Subsection (h) notice for its Knotts Island exchange on July 21, 2010 (See Docket No. P-19, Sub 277M).

### **Subsection (I) Regulation**

To date, no carrier has filed a notice of election with the Commission to be regulated pursuant to G.S. §62.133.5(l), also known as Subsection (I) regulation. Subsection (I) regulation is discussed in further detail in Part VII of this Report.

Below is a summary of the current regulatory status of the 17 ILECs in the State:

<b>Company Name</b>	<b>Type of Regulation</b>	<b>Docket Number</b>
AT&T	Subsection (h)	P-55, Sub 1013M
Barnardsville	Price Regulation Plan	P-75, Sub 63
Centurylink (Carolina)	Price Regulation Plan	P-7, Sub 825
Centurylink (Central)	Price Regulation Plan	P-10, Sub 479
Comporium	Price Regulation Plan	P-12, Sub 111
Windstream Concord	Price Regulation Plan	P-16, Sub 181
Ellerbe	Rate-of-Return	Not Applicable
Frontier	Price Regulation Plan	P-1488, Sub 1
Windstream Lexcom	Price Regulation Plan	P-31, Sub 145
Mebtel	Price Regulation Plan	P-35, Sub 96
North State	Price Regulation Plan	P-42, Sub 137
Pineville	Rate-of-Return	Not Applicable
Randolph	Price Regulation Plan	P-61, Sub 89
Saluda Mountain	Price Regulation Plan	P-76, Sub 53
Service	Price Regulation Plan	P-60, Sub 73
Verizon (Knotts Island)	Subsection (h)	P-19, Sub 277M
Windstream	Price Regulation Plan	P-118, Sub 86

## **PART III.**

### ***ARBITRATIONS AND INTERCONNECTION AGREEMENTS***

G.S. §62-110(f1), in pertinent part, authorizes the Utilities Commission to adopt rules it finds necessary as follows:

- (1) To provide for the reasonable interconnection of facilities between all providers of telecommunications services;
- (2) To determine, when necessary, the rates for such interconnection;
- (3) To provide for the reasonable unbundling of essential facilities where technically and economically feasible; and
- (4) To provide for the transfer of telephone numbers between providers in a manner that is technically and economically reasonable.

In addition, Section 251 of TA96 establishes various duties related to interconnection. Section 252 sets out the process for the approval of negotiated interconnection agreements and arbitrations for disputed interconnection agreements. Since 1996, the following negotiation and arbitration results have been achieved:

- 1,276 negotiated interconnection agreements between companies have been approved by the Commission as of February 2011 (not including amendments to existing interconnection agreements); and
- 30 petitions for arbitration have been decided by the Commission with the issuance of a Recommended Arbitration Order.

#### **PART IV.**

##### ***COMPETING LOCAL PROVIDER CERTIFICATIONS***

On July 19, 1995, the Utilities Commission issued an Order in Docket No. P-100, Sub 133 promulgating interim rules for certification and regulation of competitive local service providers and posing questions for comments on the appropriate regulatory structure for competitive local providers, resale of local service, and interconnection. After a round of comments and reply comments from interested parties, the Utilities Commission adopted a revised and expanded set of provisions as Commission Rules R17-1 through R17-5, on February 23, 1996. These rules establish the basis on which the competitive local providers or CLPs, as the new entrants are called, are regulated. These include a detailed list of items to be considered in the application of a prospective provider for local exchange and exchange access authority and specific requirements on such things as billing and customer notice.

The Commission has since streamlined the certification process. During the certification process, the Public Staff analyzes the application to determine and assure that the applicant is qualified to provide service to the public and that it demonstrates an understanding of the provisions contained in Commission Rules R17-1 through R17-8. When the application has been sufficiently perfected, the Public Staff will so advise the Commission and the Commission will generally issue a certificate without a hearing. However, the Commission retains the option to hold a hearing should the application raise concerns which may adversely affect the public interest.



As of July 1, 2011, there were 186 certified CLPs. Further, based on the most recent data published in March 2011 by the FCC, CLPs served 1,324,000<sup>4</sup> switched access lines in the state as of June 30, 2010. As of that same date, ILECs served 2,850,160 access lines in the state.

## **PART V.**

### **QUALITY OF SERVICE**

#### **A. Service Quality Standards – Retail Docket No. P-100, Sub 99**

**Commission Rule R9-8:** Companies are required to file quarterly reports with the Commission which detail monthly results on certain service quality measures as outlined in Commission Rule R9-8.

Subsection (h) ILECs are not required to adhere to Rule R9-8; therefore, currently, AT&T and Verizon South, as Subsection (h) carriers, are not required to adhere to the Commission's service quality standards as outlined in Rule R9-8.

**Website Posting of Service Quality Results:** On June 3, 2005, the Commission ordered website posting on the Commission's website of service quality results which are updated quarterly and reflect a 12-month average of results. The results for each specific service quality measure are presented in a pass/fail format. The current report, reflecting the 12 months ended March 31, 2011, can be found at [www.ncuc.net/consumer/svcqlty.pdf](http://www.ncuc.net/consumer/svcqlty.pdf). A copy of the most current report is attached hereto as **Appendix A**.

#### **B. Service Quality Standards – Wholesale Docket No. P-100, Sub 133k**

The Commission has adopted service quality measurement plans for AT&T, Carolina, Central, and Frontier<sup>5</sup> (formerly Verizon South, Inc.) to respond to the enactment of TA96 which required ILECs to provide nondiscriminatory wholesale access to CLPs and their retail customers.

---

<sup>4</sup> 176,000 lines were provided via resale, 201,000 lines were provided via unbundled network elements, 126,000 lines were provided via CLP-owned local loops, and 821,000 lines were provided via VoIP subscriptions.

<sup>5</sup> Per Ordering Paragraph No. 7 of the Commission's November 30, 2009 Order Granting Certificates and Approving Requests (Docket Nos. P-1488, Subs 0 and 1; P-1489, Sub 1; P-100, Subs 133c and 133k; P-19, Subs 277 and 537; P-574, Sub 2; and P-517, Sub 2), Frontier ". . . shall adopt the Performance Measures in effect for Verizon South, pursuant to the April 13, 2000, Order in Docket No. P-100, Sub 133k, and any subsequent orders for the existing Verizon South study area, other than the Knotts Island exchange (Docket Nos. P-1488, Sub 1, and P-100, Sub 133k)."

Frontier, Carolina, and Central continue to operate under a stipulated interim performance measurement plan approved by the Commission on April 13, 2000.

The Commission originally adopted a Service Quality Measurements (SQM) Plan and Self-Effectuating Enforcement Mechanism (SEEM) Plan effective August 1, 2003 for AT&T. In 2005, AT&T and a group of CLPs filed a new, stipulated SQM and SEEM Plans for AT&T. The Commission approved the stipulation by Order dated October 24, 2005. AT&T's new SQM and SEEM Plans became effective on January 1, 2006.

By Order dated June 21, 2006, the Commission authorized AT&T to amend its Plans to remove certain Section 251 elements as a result of the FCC's *Triennial Review Order* and *Triennial Review Remand Order*.

Further, AT&T has implemented various new interfaces and system changes in recent years which have necessitated updates to the SQM and SEEM Plans. These updates have been reflected in revised versions of the SQM and SEEM Plans with effective dates of: July 18, 2009; November 14, 2009; April 15, 2010; and July 3, 2010.

On August 31, 2010, AT&T filed a Motion to Approve Modifications to its SQM/SEEM Plans. AT&T noted that the proposed changes would streamline the SQM/SEEM Plans and that AT&T was seeking approval of the proposed SQM/SEEM Plans throughout AT&T's nine-state southeast region. The proposed changes to the SQM/SEEM Plans included the following:

- (1) elimination of Tier 2 remedies paid by AT&T to the State of North Carolina;
- (2) increases to Tier 1 remedies paid by AT&T to CLPs;
- (3) other SEEM Plan changes to eliminate several provisions that impose penalties on performance for activities that have no impact on the level of service provided to the CLP; and
- (4) miscellaneous changes including modifications, additions, and deletions to the Plans.

The Commission sought comments from interested parties on AT&T's Motion. By Order dated October 22, 2010, the Commission granted AT&T's Motion in its entirety. AT&T's modified SQM/SEEM Plans were effective on January 1, 2011.

Finally, it should be noted that, although AT&T is a Subsection (h) company as discussed in Part II of this Report, the Commission continues to have regulatory authority over the wholesale services provided by AT&T to CLPs.

## **PART VI.**

### ***NUMBERING***

#### **Area Codes**

On June 21, 2011, the Commission issued an Order Approving the Implementation Plan of the 984 Numbering Area Plan (NPA – commonly known as an area code) for the existing 919 area code located in and around Raleigh to meet the demand for telephone numbering resources which are used by telecommunications service providers to provide a host of telecommunications services. The new 984 area code is scheduled for activation on March 31, 2012. The 984 area code will be the second all-services distributed overlay implemented in the State following the activation of the 980 area code in the Charlotte area in 2001. The chief disadvantage to the implementation of an overlay is that it requires ten-digit dialing to complete local calls.

An all-services distributed overlay creates a new area code in an existing geographical area. The 984 area code will use the existing 919 area code boundary lines as its service area. Existing customers with assigned numbers will retain the 919 area code, and will not have to change their telephone numbers. After all of the telephone numbers in the 919 area code are used, customers needing new telephone numbers will be assigned telephone numbers from the new 984 area code.

#### **Requests for “Safety Valve” Relief**

In the FCC’s *Third Report and Order Second Order On Reconsideration* in CC Docket No. 96-98 and Docket No. 99-200, issued December 28, 2001, the FCC delegated authority to state commissions to hear claims that a “safety valve” should be applied when the North American Numbering Plan Administration (NANPA) or Pooling Administrator (PA) denies a specific request for numbering resources. FCC rules state that a service provider must be within six months of exhaust of its numbering resources and have achieved a 75 percent utilization of its numbering resources in a specified market area (i.e., rate center) before additional numbering resources are to be granted. The “safety valve” mechanism is a petition to the Commission made by the service provider in which it requests that numbering resources be provided to it to meet immediate and specific customer requirements which otherwise could not be met. The Commission has formally granted numbering resources through “safety valve” actions 32 times during the past two years. Generally, the demand for “safety valve” relief is driven by a business client’s internal telecommunications network or special numbering resources formatting requirements.

The deployment of packet switching technology by service providers represents a new dimension of “safety valve” relief. Service providers must establish a Local Routing Number (LRN) for each new packet switch which is specific to a particular location for identification within the North American Numbering Plan for call initialization and completion between customers. CenturyLink, Windstream Concord, and

Windstream North Carolina LLC have filed petitions with the Commission for additional numbering resources in instances in which the NANPA has denied requests for LRNs due to the fact that the percent utilization and the months to exhaust criteria had not been met. The Commission has granted each of these petitions. The increasing deployment of packet switching, which is driven by the various broadband deployment initiatives, will place an increasing demand for numbering resources across the State.

## **PART VII.**

### ***SENATE BILL 343***

On April 26, 2011, Senate Bill 343 (SB343), “An Act Establishing the Communications Regulatory Reform and Investment Act of 2011”, became law as Session Law 2011-52. A copy of SB343 is attached hereto as **Appendix B**. SB343 establishes a process by which a local exchange company (LEC) or CLP can elect to subject itself to regulation pursuant to G.S. §62-133.5(l) instead of traditional rate-of-return and/or other alternative forms of regulation permitted in Chapter 62 of the General Statutes of North Carolina. The Commission refers to this newly created regulatory alternative as “Subsection (l) price plans” to distinguish it from the already existing “Subsection (h) price plans.” See G.S. §62-133.5(h) and G.S. §62-133.5(l).

Subsection (l) price plans provide an electing LEC with a greater degree of deregulation of the terms, conditions, rates, and availability of the electing carrier’s retail services than the existing forms of regulation provide. Most notably, SB343 dispenses with the Subsection (h) price plan requirements that a LEC electing Subsection (h) regulation continue to provide stand-alone basic residential lines with rate increases for such lines capped at no more than the percentage increase of the Gross Domestic Product Price Index and relieves the electing LEC of its obligation to serve as a carrier of last resort in its service territory. Additionally, LECs that elect to be regulated under Subsection (l) are no longer required to submit an annual report to the General Assembly on and after the third anniversary following the date of the LEC’s Subsection (l) election. In return for this greater degree of regulatory freedom, the electing LEC must “forgo receipt of any funding from a State funding mechanism, other than interconnection rates, that may be established to support universal service” and must open its service territory to competition from CLPs. G.S. §62-133.5(l).

On May 17, 2011, the Commission issued an Order Instituting Certain Filing Requirements and Requesting Comments (the Order). The Order adopted interim rules establishing the notification format that must be followed if a LEC or CLP elects Subsection (l) price plan regulation. The Order also requested comments from the Public Staff and other interested parties on the issues related to rules, statutes, notice and reporting obligations which will no longer be in force with respect to Subsection (l) companies.

To date, no company has filed a notice of election to be regulated pursuant to Subsection (l).

## **PART VIII.**

### ***INTRASTATE SWITCHED ACCESS CHARGES***

Long distance providers must pay a LEC intrastate switched access charges to transport the portion of an intrastate long distance call that begins or terminates on the LEC's facilities. On November 23, 2009, Sprint Communications Company filed a Petition to Reduce Switched Access Rates charged by local exchange carriers in North Carolina on an intrastate basis, arguing that those rates are too high and should be reduced. The Commission solicited comments on Sprint's Petition in Docket No. P-100, Sub 167 from interested parties and, on April 14, 2010, established an Access Charges Working Group (ACWG) made up of interested companies and the Public Staff to further examine in greater detail the issues involved in intrastate access charge reform, including the impact on universal service funding. Switched access charges have traditionally provided an implicit subsidy used by carriers to ensure universal service. Not unexpectedly, the ACWG Report revealed widely divergent views on whether or what form switched access charge reform should take. The parties to the ACWG suggested that the Commission schedule an evidentiary hearing. The Commission agreed, and, on June 3, 2011, therefore scheduled a hearing to begin on October 18, 2011.

## **PART IX.**

### ***RECOMMENDATIONS***

Section 6.1 of HB 161 requests the Utilities Commission to recommend in each of its Reports "whether provisions of this act shall be continued, repealed, or amended." The Utilities Commission recommends that all of the provisions of House Bill 161 with the exception of Section 6.1 continue without amendment.

However, as noted in the Introduction, the Commission respectfully proposes that the General Assembly repeal Section 6.1 of HB 161 so that the Commission will no longer be required to submit a biennial report concerning telecommunications to the Joint Legislative Commission on Governmental Operations.

## **PART X.**

### ***APPENDICES***

- Appendix A:** Website Service Quality Report for the 12 Months Ended March 31, 2011
- Appendix B:** Senate Bill 343 – Session Law 2011-52 - *An Act Establishing the Communications Regulatory Reform and Investment Act of 2011*

## Service Quality Report

Period Covered: April 1, 2010 - March 31, 2011

REPORTING COMPANY	ANSWERTIMES				TROUBLE REPORTS, SERVICE ORDERS, AND CUSTOMER APPOINTMENTS						
	Operator "0"	Directory Assistance	Business Office	Repair Service	Initial Customer Trouble Reports	Repeat Customer Trouble Reports	Out-of-Service Troubles Cleared within 24 Hours	Regular Service Orders Completed within 5 Working Days	New Service Installation Appointments Not Met for Company Reasons	New Service Held Orders Not Completed within 30 Days	
@ Communications, Inc.	N/A	N/A	✓	✓	N/A	N/A	N/A	N/A	N/A	N/A	
Absolute Home Phones, Inc.	N/A	N/A	✓	✓	N/A	N/A	N/A	N/A	N/A	N/A	
Access Point, Inc.	DNR	DNR	✗	✗	N/A	N/A	N/A	N/A	N/A	N/A	
Affordable Phones Services, Inc.	N/A	N/A	✓	✓	N/A	N/A	N/A	N/A	N/A	N/A	
Alternative Phone, Inc.	N/A	N/A	✓	✓	✗	✓	N/A	✓	✓	✓	
Barnardsville Telephone Company	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓	
BLC Management, LLC	<12	<12	<12	<12	<12	<12	<12	<12	<12	<12	
Budget PrePay, Inc.	N/A	N/A	DNR	DNR	DNR	DNR	DNR	DNR	✓	✓	
BullsEye Telecom, Inc.	DNR	DNR	<12	<12	✓	DNR	DNR	DNR	DNR	DNR	
Business Telecom, Inc.	✓	✓	✓	✓	N/A	N/A	N/A	✗	N/A	N/A	
Carolina Telephone and Telegraph Co	✓	✓	✗	✗	✓	✓	✗	✓	✓	✓	
Central Telephone Company	✓	✓	✗	✗	✓	✓	✗	✓	✓	✓	
Charter Fiberlink NC - CCO, LLC	N/A	N/A	✓	✓	✓	✓	<12	<12	<12	N/A	
Citizens Telephone Company	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓	
ComTech21, LLC	N/A	N/A	DNR	DNR	✓	✓	✓	✓	✓	✓	
Covista, Inc.	✓	✓	DNR	DNR	✓	✓	✓	✓	✓	✓	
DeltaCom, Inc.	✓	✓	✓	✓	N/A	N/A	N/A	✗	N/A	N/A	
Dialog Telecommunications, Inc.	N/A	N/A	✗	✗	✓	✓	DNR	DNR	N/A	N/A	
Ellerbe Telephone Company	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓	
EveryCall Communications, Inc.	N/A	N/A	✓	✓	✓	✓	N/A	N/A	✓	✓	
Fast Phones, Inc.	<12	<12	DNR	DNR	<12	<12	<12	<12	<12	<12	
Fidelity Communication Services III, Inc.	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓	
Flatel, Inc.	N/A	N/A	✓	✓	N/A	N/A	N/A	N/A	N/A	N/A	
France Telecom Corporate Solutions	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	

KEY TO SYMBOLS USED IN THIS TABLE

✓	The company's average statewide performance met the objective during the report period.	< 12	Results were reported for fewer than 12 months; however, no waiver was requested from the Commission.
✗	The company's average statewide performance failed to meet the objective during the report period.		
N/A	The company reported that the results for this objective were not within its control. This typically means that another company provided the associated service.	DNR	The reported data for this objective for one or more months were inconsistent with Rule R9-8 and Commission orders in Docket No. P-100, Sub 99, rendering the data unusable.

Service Quality Report  
Period Covered: April 1, 2010 - March 31, 2011

REPORTING COMPANY	ANSWERTIMES				TROUBLE REPORTS, SERVICE ORDERS, AND CUSTOMER APPOINTMENTS					
	Operator "0"	Directory Assistance	Business Office	Repair Service	Initial Customer Trouble Reports	Repeat Customer Trouble Reports	Out-of-Service Troubles Cleared within 24 Hours	Regular Service Orders Completed within 5 Working Days	New Service Installation Appointments Not Met for Company Reasons	New Service Held Orders Not Completed within 30 Days
Frontier Comm. of the Carolinas Inc.	✓	✓	X	X	✓	✓	X	✓	✓	✓
Global Capacity Direct, LLC	<12	<12	<12	<12	<12	<12	<12	<12	<12	<12
Global Capacity Group, Inc.	<12	<12	<12	<12	<12	<12	<12	<12	<12	<12
Global Connection, Inc. of America	N/A	N/A	X	X	✓	✓	✓	✓	N/A	N/A
Global Crossing Local Services, Inc.	N/A	N/A	✓	✓	✓	✓	✓	N/A	✓	✓
Lightyear Network Solutions, LLC	✓	✓	✓	✓	✓	✓	N/A	X	N/A	✓
LTS of Rocky Mount, LLC	N/A	N/A	✓	✓	N/A	N/A	N/A	N/A	N/A	N/A
Madison River Communications, LLC	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓
MCImetro Access Trans. Services, LLC	✓	✓	X	✓	N/A	N/A	N/A	N/A	N/A	N/A
MEBTEL, Inc.	N/A	N/A	✓	✓	✓	✓	✓	✓	X	✓
Metropolitan Telecom. of N. C., Inc.	N/A	N/A	✓	✓	N/A	N/A	N/A	N/A	N/A	N/A
Mitel NetSolutions, Inc.	N/A	N/A	DNR	DNR	✓	✓	N/A	✓	✓	✓
Navigator Telecommunications, LLC	N/A	N/A	✓	X	N/A	N/A	N/A	N/A	N/A	N/A
North State Comm. Adv. Services, LLC	<12	<12	<12	<12	<12	<12	N/A	N/A	<12	<12
North State Telephone Company	✓	✓	X	✓	✓	✓	✓	✓	✓	✓
NOS Communications, Inc.	✓	✓	DNR	DNR	✓	✓	✓	✓	✓	✓
One Voice Communications, Inc.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OneTone Telecom, Inc.	<12	<12	<12	<12	<12	<12	<12	<12	<12	<12
Piedmont Comm. Services, Inc.	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓
Pineville Telephone Company	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓
PNG Telecommunications, Inc.	✓	✓	DNR	DNR	✓	✓	✓	✓	✓	✓
Quality Telephone, Inc.	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓
Qwest Communications Company, LLC	N/A	N/A	DNR	DNR	N/A	N/A	N/A	N/A	N/A	N/A
Randolph Telephone Company	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓

KEY TO SYMBOLS USED IN THIS TABLE

✓	The company's average statewide performance met the objective during the report period.	<12	Results were reported for fewer than 12 months; however, no waiver was requested from the Commission.
X	The company's average statewide performance failed to meet the objective during the report period.		
N/A	The company reported that the results for this objective were not within its control. This typically means that another company provided the associated service.	DNR	The reported data for this objective for one or more months were inconsistent with Rule R9-8 and Commission orders in Docket No. P-100, Sub 99, rendering the data unusable.

## Service Quality Report

Period Covered: April 1, 2010 - March 31, 2011

REPORTING COMPANY	ANSWERTIMES				TROUBLE REPORTS, SERVICE ORDERS, AND CUSTOMER APPOINTMENTS					
	Operator "0"	Directory Assistance	Business Office	Repair Service	Initial Customer Trouble Reports	Repeat Customer Trouble Reports	Out-of-Service Troubles Cleared within 24 Hours	Regular Service Orders Completed within 5 Working Days	New Service Installation Appointments Not Met for Company Reasons	New Service Held Orders Not Completed within 30 Days
Saluda Mountain Telephone Co.	N/A	N/A	✓	✗	✓	✓	✓	✓	✓	✓
Service Telephone Company	N/A	N/A	✓	✗	✓	✓	✓	✓	✓	✓
Shentel Converged Services, Inc.	N/A	N/A	✗	✗	✓	✓	✓	✓	✓	✓
SkyBest Communications, Inc.	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓
South Carolina Net, Inc.	N/A	N/A	DNR	✓	✓	✓	✓	✗	✓	✓
Spectrotel, Inc.	✓	✓	DNR	DNR	✓	✓	✓	✓	✓	✓
Springboard Telecom, LLC	N/A	N/A	✓	✓	✓	✓	✓	✗	✓	✓
Talk America, Inc.	N/A	N/A	✗	✗	DNR	DNR	N/A	N/A	N/A	N/A
TelCove Operations, Inc.	✓	✓	✓	✓	N/A	N/A	✓	N/A	N/A	N/A
Tennessee Telephone Services, LLC	<12	<12	<12	<12	<12	<12	<12	<12	<12	<12
The Other Phone Company	N/A	N/A	✗	✗	DNR	DNR	N/A	N/A	N/A	N/A
Town of Pineville	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓
UNICOM Communications, LLC	N/A	N/A	✓	✓	✓	✓	✗	✗	✓	✓
US LEC of North Carolina, Inc.	N/A	N/A	✓	✗	✓	✓	✓	N/A	✓	N/A
Wilkes Communications, Inc.	N/A	N/A	DNR	DNR	✓	✓	✓	✓	✓	✓
Windstream Communications, Inc.	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓
Windstream Concord Telephone, Inc	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓
Windstream Lexcom Comm., Inc.	<12	<12	✓	✓	✓	✓	✓	✓	✓	✓
Windstream North Carolina, Inc.	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓
XO Communications Services, Inc.	N/A	N/A	✗	✗	✓	✓	✗	N/A	N/A	N/A
Yadkin Valley Telecom, Inc.	N/A	N/A	✓	✓	✓	✓	✓	✓	✓	✓

**KEY TO SYMBOLS USED IN THIS TABLE**

✓	The company's average statewide performance met the objective during the report period.	< 12	Results were reported for fewer than 12 months; however, no waiver was requested from the Commission.
✗	The company's average statewide performance failed to meet the objective during the report period.		
N/A	The company reported that the results for this objective were not within its control. This typically means that another company provided the associated service.	DNR	The reported data for this objective for one or more months were inconsistent with Rule R9-8 and Commission orders in Docket No. P-100, Sub 99, rendering the data unusable.



**The following companies filed letters stating that they either did not provide service in North Carolina or did not provide basic local residential and/or business exchange service to customers in North Carolina during the period covered by this report.**

360networks (USA) Inc.	Hypercube Telecom, LLC	Preferred Long Distance, Inc.
Abovenet Communications, Inc.	IDT America, Corp.	Randolph Telephone Telecommunications, Inc.
Access Communications, Inc.	iNETWORKS Group, Inc.	Reliance Globalcom Services, Inc.
ALEC, Inc.	Infotelecom, LLC	RidgeLink, LLC
All American Telecom, Inc.	IntelePeer, Inc.	Sage Telecom, Inc.
ATC Outdoor DAS, LLC	Intelletrace, Inc.	SCANA Communications, Inc.
BalsamWest FiberNET, LLC	Intellicall Operator Services, Inc.	School Link, Inc.
Bandwidth.com CLEC, LLC	Intellifiber Networks, Inc.	Sprint Communications Company, L.P.
BellSouth Long Distance, Inc.	Intrado Communications, Inc.	Star Wireless, Inc.
Broadplex, LLC	IPC Network Services, Inc.	Sunesys, LLC
Broadvox-CLEC, LLC	KBSL Telecom, Inc.	SunGard NetWork Solutions, Inc.
Brydels Communications, LLC	Kentucky Data Link, Inc.	TDPC, Inc.
BT Communications Sales LLC	Legacy Long Distance International, Inc.	The New Telephone Company, Inc.
Buggs Island Telephone Cooperative	Level 3 Communications, L.L.C.	Time Warner Cable Information Services (N. C.), LLC
Cbeyond Communications, LLC	Linkup Telecom, Inc.	Touchtone Communications Inc.
Cebridge Telecom NC, LLC	LMK Communications, LLC	tw telecom of north carolina l.p.
CND Acquisition Corporation	Managed Services, Inc.	UCN, Inc.
Custom Teleconnect, Inc.	Network Innovations, Inc.	Velocity.Net Communications, Inc.
DIECA Communications, Inc.	Network Telephone Corporation	Verizon Select Services, Inc.
DSLnet Communications, LLC	Neutral Tandem - North Carolina, LLC	Victory Communications, Inc.
DukeNet Communications, LLC	New Edge Network, Inc.	Wave Telecom, Inc.
Embarq Communications, Inc.	New Horizons Communications Corp	Wholesale Carrier Services, Inc.
FeatureTel, LLC	NextG Networks of NY, Inc.	Ymax Communications Corp.
Fiber Technologies Networks, L.L.C.	Nexus Communications, Inc.	Zaida Communications Corporation
FRC, LLC	Pac-West Telecomm, Inc.	
Global NAPs North Carolina, Inc.	PaeTec Communications, Inc.	
Hotwire Communications, Ltd.	Peerless Network of North Carolina, LLC	

**The data reported by the following companies for each objective for one or more months were inconsistent with Rule R9-8 and Commission orders in Docket No. P-100, Sub 99, rendering the data unusable.**

ACN Communications Services, Inc.  
Airespring, Inc.  
American Fiber Network, Inc.  
BCN Telecom, Inc.  
Birch Communications, Inc.  
Birch Telecom of the South, Inc.  
dPi-Teleconnect, L.L.C.  
Ernest Communications, Inc.

Granite Telecommunications, LLC  
Image Access, Inc.  
Interlink Telecommunications, Inc.  
Lifeconnex Telecom, LLC  
Matrix Telecom, Inc.  
Metrostat Communications, Inc.  
Midwestern Telecommunications, Inc.  
New East Telephony, Inc.

QuantumShift Communications, Inc.  
Ready Telecom, Inc.  
Trans National Communications International, Inc.  
Windstream Norlight, Inc.  
Windstream NTI, Inc.  
Windstream NuVox, Inc.

**The following companies have not filed a service quality report.**

Access Fiber Group, Inc.  
BetterWorld Telcom, LLC  
Big River Telephone Company, LLC  
Broadview Networks, Inc.  
Cincinnati Bell Any Distance, Inc.  
Cox North Carolina Telecom, L.L.C.  
Cypress Communications Operating Company, LLC  
Entelegent Solutions, Inc.

ExteNet Systems, Inc.  
MCC Telephony of the South, LLC  
McGraw Communications, Inc.  
NET TALK.COM, INC.  
New Dimension Communications, Inc.  
NextGen Communications, Inc.  
Port City Multimedia, Inc.

Safari Communications, Inc.  
Seiretsu, Inc.  
Tele Circuit Network Corporation  
Teledias Communications, Inc.  
Velocity The Greatest Phone Company Ever, Inc.

**The following companies have opted into Section H regulation.**

AT&T Communications of the Southern States, LLC  
BellSouth Telecommunications, Inc.  
TCG of the Carolinas, Inc.  
Verizon South, Inc.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

SESSION LAW 2011-52  
SENATE BILL 343

AN ACT ESTABLISHING THE COMMUNICATIONS REGULATORY REFORM AND  
INVESTMENT ACT OF 2011.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 62-110(f1) reads as rewritten:

"(f1) Except as provided in subsection (f2) of this section, the Commission is authorized, following notice and an opportunity for interested parties to be heard, to issue a certificate to any person applying to provide local exchange or exchange access services as a public utility as defined in G.S. 62-3(23) a.6., without regard to whether local telephone service is already being provided in the territory for which the certificate is sought, provided that the person seeking to provide the service makes a satisfactory showing to the Commission that (i) the person is fit, capable, and financially able to render such service; (ii) the service to be provided will reasonably meet the service standards that the Commission may adopt; (iii) the provision of the service will not adversely impact the availability of reasonably affordable local exchange service; (iv) the person, to the extent it may be required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and (v) the provision of the service does not otherwise adversely impact the public interest. In its application for certification, the person seeking to provide the service shall set forth with particularity the proposed geographic territory to be served and the types of local exchange and exchange access services to be provided. Except as provided in G.S. 62-133.5(f), any person receiving a certificate under this section shall, until otherwise determined by the Commission, file and maintain with the Commission a complete list of the local exchange and exchange access services to be provided and the prices charged for those services, and shall be subject to such reporting requirements as the Commission may require.

Any certificate issued by the Commission pursuant to this subsection shall not permit the provision of local exchange or exchange access service until July 1, 1996, unless the Commission shall have approved a price regulation plan pursuant to G.S. 62-133.5(a) for a local exchange company with an effective date prior to July 1, 1996. In the event a price regulation plan becomes effective prior to July 1, 1996, the Commission is authorized to permit the provision of local exchange or exchange access service by a competing local provider in the franchised area of such local exchange company.

The Commission is authorized to adopt rules it finds necessary (i) to provide for the reasonable interconnection of facilities between all providers of telecommunications

services; (ii) to determine when necessary the rates for such interconnection; (iii) to provide for the reasonable unbundling of essential facilities where technically and economically feasible; (iv) to provide for the transfer of telephone numbers between providers in a manner that is technically and economically reasonable; (v) to provide for the continued development and encouragement of universally available telephone service at reasonably affordable rates; and (vi) to carry out the provisions of this subsection in a manner consistent with the public interest, which will include a consideration of whether and to what extent resale should be permitted. In adopting rules to establish an appropriate definition of universal service, the Commission shall consider evolving trends in telecommunications services and the need for consumers to have access to high-speed communications networks, the Internet, and other services to the extent that those services provide social benefits to the public at a reasonable cost.

Local exchange companies and competing local providers shall negotiate the rates for local interconnection. In the event that the parties are unable to agree within 90 days of a bona fide request for interconnection on appropriate rates for interconnection, either party may petition the Commission for determination of the appropriate rates for interconnection. Commission shall determine the appropriate rates for interconnection within 180 days from the filing of the petition.

Except as provided in subsections (f4) and (f5) of this section, each local exchange company shall be the universal service provider (carrier of last resort) in the area in which it is certificated to operate on July 1, 1995. Each local exchange company or telecommunications service provider with carrier of last resort responsibility may satisfy its carrier of last resort obligation by using any available technology. In continuing this State's commitment to universal service, the Commission shall, by December 31, 1996, adopt interim rules that designate the person that should be the universal service provider and to determine whether universal service should be funded through interconnection rates or through some other funding mechanism. At a time determined by the Commission to be in the public interest, the Commission shall conduct an investigation for the purpose of adopting final rules concerning the provision of universal services, and whether universal service should be funded through interconnection rates or through some other funding mechanism, and, consistent with the provisions of subsections (f4) and (f5) of this section, the person that should be the universal service provider. A local exchange company that has elected to be subject to alternative regulation under G.S. 62-133.5(l) does not have any carrier of last resort obligations.

The Commission shall make the determination required pursuant to this subsection in a manner that furthers this State's policy favoring universally available telephone service at reasonable rates."

**SECTION 2.** G.S. 62-302(b)(4)b. reads as rewritten:

"(b) Public Utility Rate. –

...

(4) As used in this section, the term "North Carolina jurisdictional revenues" means:

...

- b. All revenues derived from retail services no longer otherwise regulated by the operation of G.S. 62-133.5(h) or G.S. 62-133.5(l) for a local exchange company or competing local provider that has elected to be regulated under ~~that subsection.~~ those subsections."

**SECTION 3.** G.S. 62-133.5 reads as rewritten:

**"§ 62-133.5. Alternative regulation, tariffing, and deregulation of telecommunications utilities.**

...  
(g) The following sections of Chapter 62 of the General Statutes shall not apply to local exchange companies subject to price regulation under the terms of subsection (a) of this section or electing companies subject to alternative regulation under the terms of ~~subsection (h)~~ subsection (h) or (l) of this section: G.S. 62-35(c), 62-45, 62-51, 62-81, 62-111, 62-130, 62-131, 62-132, 62-133, 62-134, 62-135, 62-136, 62-137, 62-139, 62-142, and 62-153.

...  
(i) A competing local provider authorized by the Commission to do business under the provisions of G.S. 62-110(f1) may also elect to have its rates, terms, and conditions for its services determined pursuant to the ~~plan plans~~ described in ~~subsection (h)~~ subsection (h) or (l) of this section. However, it is provided further that any provisions of subsection (h) of this section requiring the provision of a specific retail service or impacting the pricing of such service, including stand-alone residence service, shall not apply to competing local providers.

...  
(k) To evaluate the affordability and quality of local exchange service provided to consumers in this State, a local exchange company or competing local provider offering basic local residential exchange service that elects to have its rates, terms, and conditions for its services determined pursuant to the ~~plan plans~~ described in ~~subsection (h)~~ subsection (h) or (l) of this section shall make an annual report to the General Assembly on the state of its company's operations. The report shall be due 30 days after the close of each calendar year and shall cover the period from January 1 through December 31 of the preceding year. The Joint Legislative Utility Review Committee must review the annual reports and decide whether to recommend that the General Assembly take corrective action in response to those reports. The report shall include the following:

- (1) An analysis of telecommunications competition by the local exchange company or competing local provider, including access line gain or loss and the impact on consumer choices from ~~enactment of the Consumer Choice and Investment Act of 2009.~~ the date the local exchange company makes its election to be subject to alternative regulation under the terms of subsection (h) or (l) of this section.
- (2) An analysis of service quality based on customer satisfaction studies from ~~enactment of the Consumer Choice and Investment Act of 2009.~~ the date the local exchange company makes its

election to be subject to alternative regulation under the terms of subsection (h) or (l) of this section.

- (3) An analysis of the level of local exchange rates from enactment of the Consumer Choice and Investment Act of 2009, the date the local exchange company makes its election to be subject to alternative regulation under the terms of subsection (h) or (l) of this section.

(k1) For a local exchange company that has made an election to be subject to alternative regulation under subsection (l) of this section, the requirement to report annually to the General Assembly under subsection (k) of this section shall no longer apply on and after the third anniversary following the date of the local exchange company's election.

(l) Notwithstanding any other provision of this Chapter, a local exchange company that is subject to rate of return regulation or subject to another form of regulation authorized under this section and who forgoes receipt of any funding from a State funding mechanism, other than interconnection rates, that may be established to support universal service as described in G.S. 62-110(f1) and whose territory is open to competition from competing local providers may elect to have its rates, terms, and conditions for its services determined pursuant to the plan described in this subsection by filing notice of its intent to do so with the Commission. The election is effective immediately upon filing. The terms "local exchange company" and "open to competition from competing local providers" shall have the same meanings as in subsection (h) of this section.

(1) Beginning on the date the local exchange company's election under this subsection becomes effective, the Commission shall not:

- a. Impose any requirements related to the terms, conditions, rates, or availability of any of the local exchange company's retail services, regardless of the technology used to provide these services.
- b. Otherwise regulate any of the local exchange company's retail services, regardless of the technology used to provide these services.
- c. Impose any tariffing requirements on any of the local exchange company's services that were not tariffed as of the date of the election, or impose any constraints on the rates of the local exchange company's services that were subject to full pricing flexibility as of the date of election.

(2) A local exchange company's election under this subsection does not affect the obligations or rights of an incumbent local exchange carrier, as that term is defined by section 251(h) of the Federal Telecommunications Act of 1996 (Act), under sections 251 and 252 of the Act, or any Federal Communications Commission regulation relating to sections 251 and 252 of the Act.

(3) A local exchange company's election under this subsection does not affect the Commission's jurisdiction concerning:

- a. Enforcement of federal requirements on the local exchange company's marketing activities as set forth in 47 U.S.C. Part 64.

- However, the Commission may not adopt, impose, or enforce other requirements on the local exchange company's marketing activities.
- b. The telecommunications relay service pursuant to G.S. 62-157.
  - c. The Life Line or Link Up programs consistent with Federal Communications Commission rules and relevant orders of the North Carolina Utilities Commission.
  - d. Universal service funding pursuant to G.S. 62-110(f1).
  - e. The authority delegated to it by the Federal Communications Commission to manage the numbering resources involving that local exchange company.
  - f. Regulatory authority over the rates, terms, and conditions of wholesale services.
  - g. The Commission's authority under section 214(e) of the Federal Communications Act of 1934, consistent with Federal Communications Commission rules.
  - h. The authority of the Commission to act in accordance with federal or State laws or regulations, including those granting authority to set rates, terms, and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements.
- (4) A local exchange company's election under this subsection does not prevent a consumer from seeking the assistance of the Public Staff of the North Carolina Utilities Commission to resolve a complaint with that local exchange company, as provided in G.S. 62-73.1."

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of April, 2011.

s/ Walter H. Dalton  
President of the Senate

s/ Dale R. Folwell  
Speaker Pro Tempore of the House of  
Representatives

s/ Beverly E. Perdue  
Governor

Approved 9:55 a.m. this 26th day of April, 2011