

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 736

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DATE	D-PG	OFFICIAL STATUS
02/12/2015	265	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
04/07/2015	1405a	Comm report: To pass as amended and re-refer to Finance
03/30/2016	5383	Withdrawn and re-referred to Jobs, Agriculture and Rural Development
04/07/2016		Comm report: To pass as amended Second reading

1.1 A bill for an act
1.2 relating to telecommunications; providing for competitive market regulation for
1.3 certain local exchange carriers; proposing coding for new law in Minnesota
1.4 Statutes, chapter 237.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[237.025] COMPETITIVE MARKET REGULATION.**

1.7 Subdivision 1. **Definitions.** (a) "Competitive service provider" means a provider
1.8 of local residential voice service who owns a substantial proportion of the last-mile or
1.9 loop facilities delivering the service in an exchange service area, without regard to the
1.10 technology used to deliver the service. "Competitive service provider" includes, but is
1.11 not limited to, a wireless or Voice over Internet Protocol provider who offers service to
1.12 a majority of households in an exchange service area with the wireless provider's own
1.13 facilities and the remainder by roaming through another wireless carrier's facilities, but
1.14 does not include:

1.15 (1) satellite technology;

1.16 (2) wireless providers who resell voice services purchased at wholesale;

1.17 (3) competitive local exchange carriers who do not who own a substantial proportion
1.18 of the last-mile or loop facilities over which they provide local residential voice service; or

1.19 (4) over-the-top VOIP providers.

1.20 (b) "Exchange service area" has the meaning given in Minnesota Rules, part
1.21 7810.0100, subpart 15.

1.22 (c) "Over-the-top VOIP provider" means a VOIP provider that has no business
1.23 relationship with the provider of the Internet connection used by the VOIP provider to
1.24 deliver voice service.

2.1 (d) "VOIP" or "Voice over Internet Protocol" means any service that:

2.2 (1) enables real-time two-way voice communications that originate from or
2.3 terminate at the user's location in Internet protocol or any successor protocol; and

2.4 (2) permits users to receive calls that originate on the public switched telephone
2.5 network and terminate calls to the public switched telephone network.

2.6 Subd. 2. **Petition.** (a) A local exchange carrier may petition the commission to be
2.7 regulated under this section in any exchange service area in which the carrier provides
2.8 local exchange service. The petition must be served on the commission, the department,
2.9 the Office of the Attorney General, and any other person designated by the commission.

2.10 (b) A petition filed under this subdivision must include:

2.11 (1) a list of exchange service areas in which the local exchange carrier is seeking to
2.12 be regulated under this section;

2.13 (2) the local services offered by the local exchange carrier in each exchange service
2.14 area;

2.15 (3) a list of alternative providers of local services in each exchange service area;

2.16 (4) a description of affiliate relationships the petitioning local exchange carrier has
2.17 with any other provider of local service in each exchange service area;

2.18 (5) documentation demonstrating the loss of local residential voice customers in
2.19 each local calling area over, at a minimum, the previous five years;

2.20 (6) evidence demonstrating that the local exchange carrier satisfies the competitive
2.21 criteria in subdivision 4 in each exchange service area; and

2.22 (7) other information requested by the commission that is relevant to the applicable
2.23 competitive criteria in subdivision 4.

2.24 Subd. 3. **Process; objection; review.** (a) A petition by a local exchange carrier
2.25 seeking to be regulated under this section shall be reviewed by the commission as
2.26 provided under this subdivision.

2.27 (b) A party objecting to a local exchange carrier's petition must file an objection
2.28 within 20 days.

2.29 (c) If no party objects to a petitioning local exchange carrier's proposed election
2.30 within 20 days of the filing of the petition, the petition is deemed approved.

2.31 (d) If a party raises an objection to a local exchange carrier's petition, the commission
2.32 must provide interested parties an opportunity to comment on the merits of the petition.

2.33 (e) The commission shall make a final determination regarding the petition within
2.34 180 days of the date all information required under subdivision 2 was submitted.

3.1 (f) In reviewing the petition, the commission may request additional information
 3.2 from the petitioning local exchange carrier and other service providers under the
 3.3 commission's jurisdiction that provide service in the relevant exchange service area.

3.4 Subd. 4. **Competitive criteria.** (a) If a petitioning local exchange carrier
 3.5 demonstrates that it serves fewer than 50 percent of the households in an exchange service
 3.6 area, and at least 50 percent of households in the exchange service area can choose voice
 3.7 service from at least one additional competitive service provider, the commission shall
 3.8 approve the petition.

3.9 (b) If a petitioning local exchange carrier serves more than 50 percent of the
 3.10 households in an exchange service area, the commission shall approve the petition if
 3.11 the petitioner demonstrates that:

3.12 (1) at least 50 percent of households in the exchange service area can choose voice
 3.13 service from at least one additional competitive service provider;

3.14 (2) no significant economic, technological, or other barriers to market entry and
 3.15 exit exist; and

3.16 (3) no single provider has the ability to maintain prices above competitive levels for
 3.17 a significant period of time or otherwise deter competition.

3.18 Subd. 5. **Market regulations.** (a) A local exchange carrier that has received
 3.19 approval from the commission to be regulated under this section in one or more of its
 3.20 exchange service areas shall be subject to regulation as a telecommunications carrier
 3.21 under section 237.035 and as a competitive local exchange carrier in Minnesota Rules,
 3.22 parts 7811.2210 and 7812.2210, as applicable, in the approved exchange service areas.
 3.23 Regulation under this section is effective 30 days after a petition is approved by the
 3.24 commission under subdivision 4.

3.25 (b) If a local exchange carrier receives commission approval to be regulated under
 3.26 this section, any existing alternative form of plan, price, or service regulation terminates
 3.27 on the day the regulation under this section becomes effective.

3.28 Subd. 6. **Relation to other law.** Nothing in this section affects or modifies:

3.29 (1) any entity's obligations or rights, or the commission's authority, under the Federal
 3.30 Communications Act of 1934, United States Code, title 47, sections 251 and 252;

3.31 (2) any commission jurisdiction over:

3.32 (i) intrastate switched access rates, terms, and conditions, including the
 3.33 implementation of federal law with respect to intercarrier compensation; or

3.34 (ii) commission authority to address or affect the resolution of disputes regarding
 3.35 intercarrier compensation; and

4.1 (3) the rights of any entity, or the authority of the commission or local government
4.2 authorities, with respect to the use and regulation of public rights-of-way under sections
4.3 237.162 and 237.163.

4.4 Subd. 7. **Reexamining applicability of competitive criteria.** The commission
4.5 may, upon petition or on its own motion, open a proceeding to examine whether the
4.6 competitive criteria in subdivision 4 continue to be met in an exchange service area in
4.7 which a local exchange carrier previously received commission approval to be regulated
4.8 under this section. If the commission determines that the competitive criteria are no
4.9 longer met, it shall determine the appropriate level of regulation for that provider in that
4.10 exchange service area.

4.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.