

Senate Bill 969

Sponsored by COMMITTEE ON COMMERCE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Deregulates services provided by telecommunications utilities. Imposes price cap on primary line basic local exchange service. Imposes price cap on intrastate switched access services. Imposes restrictions and price caps on extended area service. Imposes requirements for primary line basic local exchange service. Authorizes Public Utility Commission to resolve complaints of customers of telecommunications utilities. Authorizes Public Utility Commission to provide consumer protection and education services for customers of telecommunications carriers and alternative providers of functionally equivalent or substitute services.

A BILL FOR AN ACT

1
2 Relating to telecommunications.

3 Whereas the provision of telecommunications services to all customers in the State of Oregon
4 has become a fully competitive business in which the rates, terms and conditions of services offered
5 by some competitors are subject to little or no regulation while telecommunications utilities remain
6 subject to extensive regulation by the state; and

7 Whereas maintaining some level of regulation of telecommunications utilities is appropriate to
8 ensure the continued availability of adequate and secure telephone service to Oregon residents; and

9 Whereas reducing regulation of telecommunications utilities and eliminating rate regulation will
10 encourage innovation and investment that will benefit Oregon residents and businesses through the
11 provision of high-quality, advanced telecommunications services at competitive prices; and

12 Whereas providing consumer protection and education services for customers of telecommuni-
13 cations carriers and providers of functionally equivalent or substitute services will benefit Oregon
14 residents; now, therefore,

15 **Be It Enacted by the People of the State of Oregon:**

16 **SECTION 1.** **Sections 2 to 13 of this 2007 Act are added to and made a part of ORS**
17 **chapter 759.**

18 **SECTION 2. Definitions.** **As used in sections 2 to 13 of this 2007 Act:**

19 (1) **"Alternative provider"** means a person described in section 3 of this 2007 Act.

20 (2) **"Basic local exchange service"** means a retail telecommunications service that is
21 **single party, that has voice grade or equivalent transmission parameters and tone-dialing**
22 **capability and that provides local exchange telecommunications service. "Basic local ex-**
23 **change service" does not include Private Automated Branch Exchange trunks or public ac-**
24 **cess lines. "Basic local exchange service" may give customers access to the following**
25 **services, but does not include the following services:**

26 (a) **Extended area service;**

27 (b) **Long distance service;**

28 (c) **Telecommunications relay service for persons who are hard of hearing or persons**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 with speech impairments;

2 (d) Operator service such as call completion assistance, special billing arrangements,
3 service and trouble assistance and billing inquiry;

4 (e) Directory assistance; or

5 (f) Emergency 9-1-1 service, including Enhanced 9-1-1 telephone service where available.

6 (3) "Functionally equivalent or substitute service" means a service that provides similar
7 functionality, or meets similar customer needs, as a retail telecommunications service, even
8 if the services are not identical.

9 (4) "Local exchange telecommunications service area" means the geographic area within
10 which a telecommunications utility provides local exchange telecommunications service.

11 (5) "Package" means a combination of retail services offered for sale at a single price,
12 or a single service offered for sale at a price that is contingent on the purchase of another
13 service. A package may be comprised of any retail telecommunications service in combina-
14 tion with any other type of service.

15 (6) "Primary line basic local exchange service" means the first line only of basic local
16 exchange service to an individual customer location that is not included in a package.

17 (7) "Retail telecommunications service" means a telecommunications service provided for
18 a fee to an end user customer. "Retail telecommunications service" does not include a ser-
19 vice provided by one telecommunications utility to another telecommunications carrier, un-
20 less the telecommunications carrier receiving the service is the end user of the service.

21 (8) "Telecommunications carrier" means any provider of retail telecommunications ser-
22 vices, except a call aggregator as defined in ORS 759.690.

23 **SECTION 2a. Applicability.** Sections 2 to 13 of this 2007 Act do not apply to any tele-
24 communications utility that serves fewer than 50,000 access lines in Oregon and is not affil-
25 iated or under common control with any other kind of public utility providing service in
26 Oregon.

27 **SECTION 3. Alternative providers.** (1) For the purposes of sections 2 to 13 of this 2007
28 Act, an alternative provider is:

29 (a) A radio common carrier;

30 (b) A cable telephony provider;

31 (c) A voice over Internet protocol service provider; or

32 (d) Any other provider of a functionally equivalent or substitute service, without regard
33 to the technology employed or whether the provider is subject to regulation by the Public
34 Utility Commission or any other agency.

35 (2) The Public Utility Commission by rule may provide that any person described in sub-
36 section (1) of this section is not an alternative provider. In adopting rules under this sub-
37 section, the commission shall consider determinations made by the Federal Communications
38 Commission on whether a particular service is an information service, and not a telecom-
39 munications service, for the purpose of federal law.

40 **SECTION 4. Deregulation of services of telecommunications utilities.** (1) Except as pro-
41 vided by subsection (5) of this section, retail telecommunications services provided by a
42 telecommunications utility are subject only to the requirements of sections 2 to 13 of this
43 2007 Act, ORS 759.005, 759.015, 759.016, 759.020, 759.025, 759.027, 759.060, 759.075, 759.080,
44 759.425 (1) and (3) to (8), 759.450, 759.455, 759.500 to 759.570, 759.580, 759.585, 759.590, 759.595,
45 759.650 to 759.675, 759.690, 759.715, 759.720, 759.730, 759.900 and 759.990 and sections 2 to 6, 7,

1 8 and 9 to 16, chapter 290, Oregon Laws 1987, and sections 1 and 2, chapter 204, Oregon Laws
2 2005.

3 (2) Except as provided in subsection (5) of this section, the rates, terms, conditions,
4 charges and fees for or in connection with retail telecommunications services provided by
5 telecommunications utilities are not subject to regulation by the Public Utility Commission.

6 (3) If a telecommunications utility offers for sale a package that includes basic local ex-
7 change service or a functionally equivalent or substitute service, the package, including the
8 equivalent of basic local exchange service, is a retail telecommunications service deregulated
9 under this section.

10 (4) If a telecommunications utility elected before the effective date of this 2007 Act to
11 be subject to price regulation pursuant to ORS 759.410, on and after the effective date of this
12 2007 Act the rates of the utility are governed by sections 2 to 9 of this 2007 Act and not by
13 ORS 759.410.

14 (5) On or after January 1, 2011, the commission by order may regulate the rates, terms,
15 conditions, charges and fees for or in connection with retail telecommunications services
16 provided by a telecommunications carrier if the commission determines, following notice and
17 hearing, that the service is not subject to competition by at least one alternative provider.

18 **SECTION 5. Price cap on primary line basic local exchange service.** (1) The rate that a
19 telecommunications utility may charge for primary line basic local exchange service is sub-
20 ject to the price cap described in this section. A telecommunications utility may adjust the
21 rate for primary line basic local exchange service as long as the rate does not exceed the
22 maximum rate allowed by this section.

23 (2) During 2008, 2009 and 2010, a telecommunications utility may not charge a rate for
24 primary line basic local exchange service that is greater than the rate that was in effect for
25 the utility immediately before the effective date of this 2007 Act.

26 (3) In 2011 and subsequent calendar years, the allowable rate for primary line basic local
27 exchange service under subsection (2) of this section shall be adjusted annually by an amount
28 equivalent to any increases in the Consumer Price Index as published by the Bureau of Labor
29 Statistics of the United States Department of Labor for the Portland, Oregon, area (all
30 items) for the preceding calendar year.

31 (4) A telecommunications utility shall provide written notice to the Public Utility Com-
32 mission of changes to the rate charged for primary line basic local exchange service. The
33 notice must be given to the commission within 30 days after the effective date of the change.

34 (5) For purposes of this section, the rate for primary line basic local exchange service
35 does not include:

36 (a) Any charges to the consumer resulting from action by a federal agency;

37 (b) Taxes, fees or surcharges imposed or authorized by a governmental body that are
38 separately itemized and billed by a telecommunications utility to its customers; or

39 (c) Charges for extended area service.

40 **SECTION 6. Elimination of price cap on primary line basic local exchange service.** (1)
41 On or after January 1, 2011, a telecommunications utility may petition the Public Utility
42 Commission to exempt primary line basic local exchange service from the price cap estab-
43 lished by section 5 of this 2007 Act. Notwithstanding any other provision of this chapter, the
44 commission shall exempt primary line basic local exchange service from the price cap if the
45 commission finds that service competition exists.

1 (2) In determining whether service competition exists for the purposes of this section,
2 the commission shall consider the extent to which functionally equivalent or substitute ser-
3 vices are available from one or more alternative providers in the local exchange telecom-
4 munications service area served by the telecommunications utility.

5 (3) The commission shall enter a final order in a proceeding under this section within
6 nine months after the date the telecommunications utility files a petition under subsection
7 (1) of this section.

8 **SECTION 7. Price cap on intrastate switched access services.** (1) Except as provided in
9 subsection (2) of this section, the rate that a telecommunications utility may charge for
10 intrastate switched access services may not exceed the rate that was in effect for the utility
11 immediately before the effective date of this 2007 Act.

12 (2) The Public Utility Commission shall adjust the rate price cap for intrastate switched
13 access services as may be required from time to time by final action by the Federal Com-
14 munications Commission concerning the rates for intercarrier compensation.

15 **SECTION 8. Price cap on extended area service.** (1) A telecommunications utility shall
16 continue to provide extended area service on both a flat rate and measured service rate basis
17 for the routes that were authorized by the Public Utility Commission immediately before the
18 effective date of this 2007 Act.

19 (2) The commission may not require any expanded or new extended area service routes
20 for a telecommunications utility after the effective date of this 2007 Act.

21 (3) A telecommunications utility may, without commission approval, incorporate the
22 utility's extended area service flat rate for a local exchange telecommunications service area
23 into the flat rate for primary line basic local exchange service.

24 (4) Regardless of whether a telecommunications utility incorporates the utility's extended
25 area service flat rate into the utility's flat rate for primary line basic local exchange service
26 under subsection (3) of this section, the rate that a telecommunications utility may charge
27 for extended area service may not exceed the rate that was in effect for the utility imme-
28 diately before the effective date of this 2007 Act. Rates for extended area service included in
29 a package are not subject to any price cap under sections 2 to 13 of this 2007 Act or other-
30 wise subject to regulation by the commission.

31 **SECTION 9. Availability of primary line basic local exchange service.** (1) A telecommu-
32 nications utility may not require that a customer purchase or subscribe to a telecommuni-
33 cations service other than a single access line as a condition of providing primary line basic
34 local exchange service to the customer.

35 (2) A telecommunications utility must provide primary line basic local exchange service
36 to the local exchange telecommunications service area served by the utility unless:

37 (a) An alternative provider is furnishing a functionally equivalent or substitute service
38 to customers in the specific area where the service will not be provided by the utility; or

39 (b) There is new construction in the local exchange telecommunications service area and
40 an alternative provider proposes to furnish a functionally equivalent or substitute service to
41 customers in the specific area where the service will not be provided by the utility.

42 (3) If a telecommunications utility proposes to discontinue or withhold primary line basic
43 local exchange service under subsection (2) of this section, the utility must:

44 (a) File a notice of the proposed discontinuance or withholding of service with the Public
45 Utility Commission;

1 (b) Publish a notice of the proposed discontinuance or withholding of service in a news-
 2 paper circulated within the local exchange telecommunications service area; and

3 (c) Provide such other reasonable notice as may be required by the commission.

4 (4) Any person or telecommunications carrier affected by a discontinuance or withholding
 5 of primary line basic local exchange service under this section may apply to the commission
 6 to determine whether the discontinuance or withholding of service is permitted under sub-
 7 section (2) of this section. An application under this section must be made not later than 30
 8 days after notice of the proposed discontinuance or withholding of service is published under
 9 subsection (3)(b) of this section.

10 **SECTION 10. Commission authority to resolve customer complaints against telecommu-**
 11 **nications utility.** (1) The Public Utility Commission may investigate and resolve complaints
 12 described in subsection (2) of this section that are made by customers of a telecommuni-
 13 cations utility and that relate to retail telecommunications services provided by the utility
 14 that were regulated services immediately before the effective date of this 2007 Act.

15 (2) The commission may investigate and resolve complaints under this section relating
 16 to the quality and availability of retail telecommunications services, whether the price and
 17 conditions of services are in conformance with filed tariffs or price lists, deposit require-
 18 ments for the services and issues relating to the disconnection of the services.

19 (3) The commission shall investigate and resolve a complaint under this section only if
 20 the commission determines that the customer has made a good faith attempt to resolve the
 21 matter with the telecommunications utility before filing a complaint with the commission.

22 (4) The commission shall use the procedures described in ORS 756.500 to 756.610 to in-
 23 vestigate and resolve complaints under this section.

24 **SECTION 11. Commission authorized to establish and provide consumer protection and**
 25 **education services.** (1) The Public Utility Commission shall establish, maintain and operate
 26 a program that provides consumer services to customers of retail telecommunications ser-
 27 vices and alternative providers. The program shall include:

28 (a) Establishing and maintaining a website that provides information to assist customers
 29 in purchasing retail telecommunications services and functionally equivalent or substitute
 30 services, and assist customers in understanding the nature, terms and conditions of those
 31 services. The website must include information about telecommunications carriers and al-
 32 ternative providers, retail telecommunications services and functionally equivalent or sub-
 33 stitute services, contact information for telecommunications carriers and alternative
 34 providers, and links to the websites of telecommunications carriers and alternative provid-
 35 ers;

36 (b) Assisting customers with questions about telecommunications carriers and alterna-
 37 tive providers, and informing consumers how they may present such questions directly to
 38 such telecommunications carriers and alternative providers; and

39 (c) Referring customer complaints to telecommunications carriers and alternative pro-
 40 viders, and requiring telecommunications carriers and alternative providers to report back
 41 to the commission regarding the resolution of referred complaints.

42 (2) The commission may require that a telecommunications carrier or alternative pro-
 43 vider register with the commission and provide the following information:

44 (a) The name and address of the telecommunications carrier or alternative provider;

45 (b) Contact information for commission inquiries and customer inquiries and complaints;

1 and

2 (c) An address for a website that provides a description, if available, of the retail tele-
3 communications services and functionally equivalent or substitute services provided by the
4 telecommunications carrier or alternative provider and the prices, terms and conditions for
5 purchasing those services.

6 (3) Registration under subsection (2) of this section is not a condition of transacting
7 business in this state, and the commission may not regulate the business or services of any
8 telecommunications carrier or alternative provider except as otherwise provided in this
9 chapter.

10 SECTION 12. Commission report on competition for services. The Public Utility Com-
11 mission shall report to each session of the Legislative Assembly on competition for retail
12 telecommunications services and functionally equivalent or substitute services in this state.

13 SECTION 13. Requests for information from commission. (1) Upon request from the
14 Public Utility Commission, telecommunications carriers and alternative providers shall pro-
15 vide information relating to the nature and quantity of retail telecommunications services
16 and functionally equivalent or substitute services provided to customers in this state, with
17 the level of geographic detail that the commission may reasonably specify. A telecommuni-
18 cations carrier or alternative provider may identify specific information provided to the
19 commission as trade secrets. Any information identified as a trade secret is confidential and
20 exempt from disclosure under ORS 192.501 (2).

21 (2) Upon request, the commission shall provide information collected under this section
22 to any person filing a petition under section 6 of this 2007 Act or ORS 759.052 and to all
23 parties to a proceeding in connection with a petition filed under section 6 of this 2007 Act
24 or ORS 759.052. The commission shall take all appropriate precautions to protect trade se-
25 crets in information provided under this subsection, including but not limited to summarizing
26 the information, omitting the names of telecommunications carriers and alternative provid-
27 ers and issuing protective orders.

28 (3) The commission shall pay the costs of implementing this section from fees collected
29 by the commission from telecommunications carriers pursuant to ORS 756.310.

30 SECTION 14. Section 13 of this 2007 Act is repealed January 2, 2012.

31 SECTION 15. The section captions used in this 2007 Act are provided only for the con-
32 venience of the reader and do not become part of the statutory law of this state or express
33 any legislative intent in the enactment of this 2007 Act.

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