

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 715
Final Reading

Introduced by Fischer, 43.

Read first time January 04, 2012

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to telecommunications regulation; to amend
2 sections 86-103, 86-135, 86-136, 86-137, and 86-138,
3 Reissue Revised Statutes of Nebraska, and section 86-101,
4 Revised Statutes Cumulative Supplement, 2010; to change
5 provisions relating to regulation of boundaries of local
6 exchange areas for advanced telecommunications capability
7 service; to define a term; to harmonize provisions; and
8 to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-101, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 86-101 Sections 86-101 to ~~86-163 and section 86-165~~ and
4 section 3 of this act shall be known and may be cited as the Nebraska
5 Telecommunications Regulation Act.

6 Sec. 2. Section 86-103, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 86-103 For purposes of the Nebraska Telecommunications
9 Regulation Act, unless the context otherwise requires, the
10 definitions found in sections 86-104 to 86-121 and section 3 of this
11 act apply.

12 Sec. 3. Advanced telecommunications capability service
13 means high-speed, broadband telecommunications capability provided by
14 a local exchange carrier that enables users to originate and receive
15 high-quality voice, data, graphics, and video communications using
16 any technology.

17 Sec. 4. Section 86-135, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 86-135 (1) Any person may file an application with the
20 commission to obtain ~~the~~ advanced telecommunications capability
21 service furnished by a telecommunications company in the local
22 exchange service-area adjacent to the territory ~~local exchange area~~
23 in which the applicant resides. ~~or operates.~~

24 (2) The commission shall serve upon each
25 telecommunications company directly affected a copy of the

1 application and notice of the hearing at least thirty days prior to
2 the hearing on the application, which shall be held if all of the
3 telecommunications companies involved do not consent to the
4 application.

5 (3) If an application for the revision of an exchange
6 service area includes more than one customer in a particular
7 exchange, the commission shall consider the circumstances of each
8 customer and the impact to the obligations of any affected
9 telecommunications company which has not consented to the
10 application.

11 Sec. 5. Section 86-136, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 86-136 Upon the completion of the hearing on such an
14 application made pursuant to section 86-135, if a hearing is
15 required, the commission may grant the application, in whole or in
16 part, if the evidence establishes ~~all of the~~ following:

17 (1) That such applicant is not receiving, and will not
18 within a reasonable time receive, ~~reasonably adequate exchange~~
19 ~~telephone~~ reasonable advanced telecommunications capability service
20 from the telecommunications company which furnishes ~~such~~
21 telecommunications service in the local exchange service ~~area~~ in
22 which the applicant resides; ~~or operates. The fact that an applicant~~
23 ~~is required to pay toll charges for long distance telephone calls to~~
24 ~~an exchange service area adjacent to the territory in which the~~
25 ~~applicant resides or operates shall not be deemed to constitute~~

1 ~~inadequate exchange telephone service from the telecommunications~~
2 ~~company which furnishes such service;~~

3 (2) ~~The~~ That the revision of the exchange service area
4 required to grant the application ~~will not create a duplication of~~
5 ~~facilities,~~ is economically sound, ~~and will not impair the capability~~
6 of any telecommunications company affected to serve the remaining
7 subscribers in any affected exchanges, and will not impose an undue
8 and unreasonable technological or engineering burden on any affected
9 telecommunications company; and

10 (3) ~~The community of interest in the general territory is~~
11 ~~such that the public offering of each telecommunications company in~~
12 ~~its own exchange service area involved should include all the~~
13 ~~territory in its service area as revised by the commission's order;~~
14 ~~and~~

15 (4) ~~The~~ (3) That the applicant is willing and, unless
16 waived by the affected telecommunications company, will be required
17 ~~to~~ pay such construction and other costs and rates as are fair and
18 equitable and will reimburse the affected telecommunications company
19 for any necessary loss of undepreciated investment in existing
20 property as determined by the commission. The amount of any payment
21 by the applicant for construction and other costs associated with
22 providing service to the applicant may be negotiated between the
23 applicant and the affected telecommunications company.

24 Sec. 6. Section 86-137, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 86-137 After the commission has lawfully granted an
2 application pursuant to section 86-136, the telecommunications
3 company ordered to provide the ~~exchange—telephone—advanced~~
4 telecommunications capability service shall be issued a certificate
5 of convenience and necessity to serve that ~~portion of the territory~~
6 area added to its local exchange ~~service~~ area by the commission, if
7 necessary. The commission shall set the date when the ~~exchange~~
8 ~~telephone~~ service granted shall take effect and, in doing so, shall
9 take into consideration any construction or major repair which will
10 be required of the telecommunications company involved.

11 Sec. 7. Section 86-138, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 86-138 ~~When—If~~ the commission refuses to grant an
14 application made pursuant to section 86-135, no new application for
15 the same ~~exchange—telephone—advanced~~ telecommunications capability
16 service shall be filed or shall be considered by the commission until
17 one year has elapsed after the date of mailing of the commission
18 order.

19 Sec. 8. Original sections 86-103, 86-135, 86-136, 86-137,
20 and 86-138, Reissue Revised Statutes of Nebraska, and section 86-101,
21 Revised Statutes Cumulative Supplement, 2010, are repealed.