

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 715

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, switched, broadband telecommunications capability
14 that enables users to originate and receive high-quality voice, data,
15 graphics, and video communications using any technology.

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

18 86-135 (1) Any person may file an application with the
19 commission to obtain ~~the~~ advanced telecommunications capability
20 service furnished by a telecommunications company in the local
21 exchange service area adjacent to the territory ~~local exchange area~~
22 ~~in which the applicant resides, or operates.~~

23 (2) The commission shall serve upon each
24 telecommunications company directly affected a copy of the
25 application and notice of the hearing at least thirty days prior to

1 the hearing on the application, which shall be held if all of the
2 telecommunications companies involved do not consent to the
3 application.

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

6 86-136 Upon the completion of the hearing on such an
7 application made pursuant to section 86-135, if a hearing is
8 required, the commission may grant the application, in whole or in
9 part, if the evidence establishes ~~all of the~~ following:

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

21 (2) The revision of the exchange service area required to
22 grant the application ~~will not create a duplication of facilities,~~ is
23 economically sound, and will not impair the capability of any
24 telecommunications company affected to serve the remaining
25 subscribers in any affected exchanges; and

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

6 ~~(4)-(3) The applicant is willing and, unless waived by~~
7 ~~the affected telecommunications company, will be required to pay such~~
8 ~~construction and other costs and rates as are fair and equitable and~~
9 ~~will reimburse the affected telecommunications company for any~~
10 ~~necessary loss of undepreciated investment in existing property as~~
11 ~~determined by the commission. The amount of any payment by the~~
12 ~~applicant for construction and other costs associated with providing~~
13 ~~service to the applicant may be negotiated between the applicant and~~
14 ~~the affected telecommunications company.~~

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

17 86-137 After the commission has lawfully granted an
18 application pursuant to section 86-136, the telecommunications
19 company ordered to provide the ~~exchange telephone~~ advanced
20 telecommunications capability service shall be issued a certificate
21 of convenience and necessity to serve that ~~portion of the territory~~
22 area added to its local exchange ~~service~~ area by the commission, if
23 necessary. The commission shall set the date when the ~~exchange~~
24 ~~telephone~~ service granted shall take effect and, in doing so, shall
25 take into consideration any construction or major repair which will

1 be required of the telecommunications company involved.

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

4 86-138 ~~When~~ If the commission refuses to grant an
5 application made pursuant to section 86-135, no new application for
6 the same ~~exchange telephone~~ advanced telecommunications capability
7 service shall be filed or shall be considered by the commission until
8 one year has elapsed after the date of mailing of the commission
9 order.

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