

## LEGISLATIVE BILL 715

Approved by the Governor April 10, 2012

Introduced by Fischer, 43.

FOR AN ACT relating to telecommunications regulation; to amend sections 86-103, 86-135, 86-136, 86-137, and 86-138, Reissue Revised Statutes of Nebraska, and section 86-101, Revised Statutes Cumulative Supplement, 2010; to change provisions relating to regulation of boundaries of local exchange areas for advanced telecommunications capability service; to define a term; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

(2) The commission shall serve upon each telecommunications company directly affected a copy of the application and notice of the hearing at least thirty days prior to the hearing on the application, which shall be held if all of the telecommunications companies involved do not consent to the application.

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

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

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

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

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

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

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

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

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

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

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

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