

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 573**

Introduced by Friesen, 34.

Read first time January 18, 2017

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to the Nebraska Telecommunications Regulation  
2 Act; to amend sections 86-101, 86-103, 86-124, and 86-143, Reissue  
3 Revised Statutes of Nebraska; to define a term; to provide for a  
4 nonregulated activity; to change provisions relating to local  
5 competition determinations and rate list filing requirements; to  
6 harmonize provisions; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 86-101, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

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

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

7 86-103 For purposes of the Nebraska Telecommunications Regulation  
8 Act, unless the context otherwise requires, the definitions found in  
9 sections 86-103.01 to 86-121 and section 3 of this act apply.

10 Sec. 3. Competitive local provider means a telecommunications  
11 company offering a telecommunications service by which there are  
12 alternative services available without regard to the technology employed.

13 Sec. 4. Section 86-124, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 86-124 The commission shall not regulate the following:

16 (1) One-way broadcast or cable television transmission of television  
17 or radio signals; ~~and~~

18 (2) Mobile radio services, radio paging services, and wireless  
19 telecommunications service; and -

20 (3) The rates, terms, conditions, definition, and standards of local  
21 exchange retail telecommunications service provided by a competitive  
22 local provider.

23 Sec. 5. Section 86-143, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 86-143 (1)(a) Except as provided in subdivision (b) of this  
26 subsection, in an exchange in which alternative services are available  
27 ~~local competition exists~~, telecommunications companies shall file rate  
28 lists for each telecommunications service which shall be effective  
29 immediately after ten days' notice to the commission.

30 (b) Notwithstanding any other provision of this section and Chapter  
31 86, a telecommunications company shall not be required to file rate

1 lists, tariffs, or contracts for any telecommunications service,  
2 including local exchange and interexchange services, provided as a  
3 business service. Upon written notice to the commission, a  
4 telecommunications company may withdraw any rate list, tariff, or  
5 contract not required to be filed under this subdivision if the  
6 telecommunications company posts the rates, terms, and conditions of its  
7 telecommunications service on the company's web site.

8 (2) Local competition for all categories and classifications of  
9 telecommunications services of a telecommunications company shall be  
10 deemed to exist in a geographic area defined by that company's telephone  
11 an exchange boundary or by county or other political subdivision boundary  
12 in which the company's exchange is located if: a telecommunications  
13 company files an application with the commission requesting a  
14 determination as to whether local competition exists in one or more  
15 exchanges specified in the application and the commission enters an order  
16 after public notice and a hearing which determines that local competition  
17 exists in such exchange or exchanges. Notwithstanding any other provision  
18 of the Nebraska Telecommunications Regulation Act, the commission may  
19 consider any wireless telecommunications service provided in the exchange  
20 or exchanges when determining whether local competition exists.

21 (a) The population in the geographic area is at least one hundred  
22 thousand people; or

23 (b) In geographic areas in which the population is less than one  
24 hundred thousand people, a telecommunications company files an  
25 application with the commission requesting a determination as to whether  
26 alternative services are available in one or more geographic areas  
27 specified in the application and the commission enters an order after  
28 public notice and a hearing which determines that alternative services  
29 are available in such geographic area. Local competition in such  
30 geographic area shall be determined to exist and an application shall be  
31 approved upon a finding that one of the following circumstances exist:

1 (i) The number of active residential local exchange telecommunications  
2 subscribers then served by the applicant constitutes fifty percent or  
3 less of the households located in the geographic area or (ii) at least  
4 sixty percent of the households in the geographic area can choose voice  
5 service communications capability from among two or more other  
6 unaffiliated providers. Notwithstanding any other provision of the  
7 Nebraska Telecommunications Regulation Act, in considering an application  
8 made under subdivision (b)(ii) of this section, the commission shall  
9 consider the availability of all types of voice communications service  
10 offered by unaffiliated providers, regardless of the technology employed  
11 and the regulatory classification of such other providers under state or  
12 federal law, including, without limitation, wireless telecommunications  
13 service and voice-over-Internet service in the geographic area, except  
14 that for local competition to be found under subdivision (b)(ii) of this  
15 section, at least one such unaffiliated provider must provide voice  
16 service by facilities-based terrestrial wireline.

17 (3) If seventy-five percent or more of the residential households in  
18 a telecommunications company's incumbent territory are located in  
19 geographic areas that have been determined to be competitive pursuant to  
20 subsection (2) of this section, the commission shall expand the finding  
21 of local competition throughout the telecommunications company's entire  
22 incumbent local exchange service territory in the state.

23 (4) ~~(3)~~ The notice of the hearing on the telecommunications  
24 company's application shall be given once each week for two consecutive  
25 weeks in a newspaper of general circulation in the affected area and  
26 shall state that a determination of local competition may result in the  
27 freeing of the telecommunications company from rate regulation by the  
28 commission. The notice of the hearing on the commission's motion shall be  
29 sent to the telecommunications company by certified mail, return receipt  
30 requested, and notice of such hearing shall be published in a newspaper  
31 of general circulation in the exchange area. The hearing on the

1 commission's motion shall be held no sooner than ten days after the  
2 receipt of notice by the telecommunications company but not later than  
3 sixty days after the filing of the application by the telecommunications  
4 company. The commission shall make a determination and issue its order  
5 within ninety days after the filing of the application, or it shall be  
6 deemed approved.

7 (5) {4} The commission may, on its own motion at any time after a  
8 determination as to whether local competition exists, reexamine and  
9 redetermine the determination after notice and a hearing on the issue.

10 Sec. 6. Original sections 86-101, 86-103, 86-124, and 86-143,  
11 Reissue Revised Statutes of Nebraska, are repealed.