



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
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SUSAN D. PARKER, ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.
SECRETARY

**GENERIC PROCEEDING TO CONSIDER
IMPLEMENTATION OF THE COMMUNICATIONS
REFORM ACT OF 2005**

DOCKET 29733

IMPLEMENTATION ORDER

BY THE COMMISSION:

Given the rapidly approaching effective date of the primary provisions of the Communications Reform Act of 2005 (the "Act"),¹ the Commission herein enters this order for purposes of providing clarity with respect to the obligations of telecommunications carriers pursuant to the Act. In particular, the Commission seeks to advise all interested parties that pursuant to §37-2A-5(a) of the Act, all incumbent local exchange carriers ("ILECs"),² local exchange carriers or interexchange carriers who were certified by the Commission prior to August 1, 2005 and who failed to file a written notice with the Commission declining regulation under the Act no later than August 31, 2005 are deemed to have elected regulation under the Act.³

Perhaps the most notable provisions of the Act relate to the jurisdiction of the Commission with respect to telecommunications carriers that have affirmatively elected or

¹ Codified at *Code of Alabama*, 1975 §§37-2A-1 – 11.

² With the exception of certain rural ILECs.

³ An incumbent local exchange carrier, local exchange carrier, or interexchange carrier may modify their status under the Act annually by filing a written notice with the Commission between August 1 and August 30 of any given year.

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have been deemed to have elected regulation thereunder. In particular, §§37-2A-4(e)-(h) state as follows:

(e) Beginning August 1, 2006, the commission shall not have any jurisdiction, right, power, authority, or duty to regulate, supervise, control, oversee, or monitor, directly or indirectly, the costs, rates, charges, terms, or conditions of any new contract offering, but it shall retain jurisdiction over existing contract offerings for the duration of the existing contract offering, unless otherwise agreed to by the affected customer.

(f) Beginning February 1, 2007, the commission shall exercise its jurisdiction, right, power, authority, or duty to regulate, supervise, control, oversee, and monitor basic telephone service and optional telephone features as prescribed in Section 37-2A-8.

(g) Beginning February 1, 2007, the commission shall not have any jurisdiction, right, power, authority, or duty to regulate, supervise, control, oversee, or monitor, directly or indirectly, any retail telecommunications services and any existing bundled offering, except as provided in subsections (e) and (f) and Section 37-2A-7, nor shall it have any jurisdiction, right, power, authority, or duty to regulate, supervise, control, oversee, or monitor, directly or indirectly, the facilities used to provide such retail telecommunications services or bundled offerings.

(h) Tariffs for the services remaining subject to the commission's jurisdiction under subsections (d) and (e) shall remain valid and in effect until (1) the date on which the commission's jurisdiction ceases as contemplated in subsection (g), and (2) until the last existing contract offering has expired or has been replaced by a new contract offering, respectively. The relevant carrier shall notify the commission in writing of the expiration or replacement of the last existing contract offering, identifying the expiration date for the relevant tariffs, after which date the tariffs shall be null and void and of no further force or effect. Except as set forth above, the tariffs for those services no longer subject to the commission's authority pursuant to subsection (g) shall be null and void and of no further force or effect from and after the date on which such jurisdiction ceases.

With regard to the provision of basic local telephone service which remains under the jurisdiction of the Commission,⁴ the following provisions of §§37-2A8(b)(1)-(3)(c) are of great importance:

⁴ Basic telephone service as defined at §37-2A-2(1).

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(b)(1) Beginning February 1, 2007, the retail price for basic telephone service to be offered by incumbent local exchange carriers shall not exceed the highest price charged by the incumbent local exchange carrier on January 31, 2007.

(2) Beginning January 1, 2008, and every succeeding January 1, the retail rates for basic telephone service may not be increased by the incumbent local exchange carrier to exceed the rates of the previous year as of January 1, plus any increase in the Consumer Price Index for all urban consumers as reported by the U.S. Department of Labor, Bureau of Labor Statistics.

(3) a. Each optional telephone feature in a bundled offering must be available on a stand-alone basis under a tariff on file with the commission. If a bundled offering is offered by a local exchange carrier, the carrier shall have a basic telephone service tariffed offering for residential customers and business customers having one or two lines on file with the commission.⁵

b. Beginning January 1, 2008, increases in tariffed rates for optional telephone features may not exceed five percent per optional telephone feature per year.

c. A bundled offering that consists solely of basic telephone service and optional telephone features must be priced at or below the sum of the tariffed price of basic telephone service and the tariffed price of the associated optional telephone features.

In light of the foregoing requirements, all telecommunications carriers will be expected to maintain tariffs with the Commission that address the rates, terms and conditions of all telecommunications services remaining under the general jurisdiction of the Commission. To comply with the Act's requirements regarding the Commission's continued oversight of contract service offerings in effect prior to August 1, 2006, carriers may grandfather existing rates, terms and conditions regarding such services by submitting notifications to the Commission which clearly specify that intention. By August 1, 2007, and annually thereafter, carriers will provide the Commission with a listing of all active

⁵ The Commission has determined that the tariff requirements of this section also apply to basic telephone service offerings to business customers having three or four lines due to the controlling definition of basic telephone services found at §37-2A-2(1).

contract service offerings with an effective date prior to August 1, 2006 along with the projected date of contract termination.

The complaint jurisdiction of the Commission with respect to telecommunications carriers regulated under the Act is another important consideration. In that regard, §37-2A-4(c) states:

(c) Once a residential telecommunications service, a residential bundled offering, or a residential contract offering is no longer subject to the general jurisdiction of the commission as prescribed below, the commission shall nevertheless retain exclusive complaint jurisdiction for the telecommunications services provided, either as stand-alone services or as part of a bundled offering or contract offering, for complaints arising out of any of the following:⁶

- (1) Inaccurate billing for telecommunications services.
- (2) Billing of telecommunications services not ordered by or on behalf of the customer.
- (3) The establishment or disruption of telecommunications service.

The commission may only interpret and enforce the terms and conditions of the underlying agreements or contracts for telecommunications services. The commission shall not have the power to set the agreement aside or alter its terms or conditions, either directly or indirectly. No person or entity other than the customer and his or her representative, the carrier, and the Attorney General may participate in these complaint proceedings before the commission. The jurisdiction of the commission with respect to these retail residential issues shall extend to formal and informal complaints and may include the resolution thereof through alternative dispute resolution procedures including mediation. With respect to retail billing requirements, after August 1, 2005, the commission shall enforce only the Truth in Billing regulations prescribed by the Federal Communications Commission.

- (4) The provision of call blocking of number delivery and line blocking of number delivery in order to protect the confidentiality of victims of domestic violence, domestic violence shelters, or affiliated professionals certified by the Alabama Coalition Against Domestic Violence to be in need of blocking.

⁶ Notably, the Commission retains its general complaint jurisdiction pursuant to *Code* §37-1-83 with respect to all telecommunications services that remain under the general jurisdiction of the Commission including "basic telephone services" as defined at §37-2A-2(1).

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Another important provision of the Act with which telecommunications carriers should be concerned is §37-2A-6 which requires the provision of customer notifications. In particular, the provisions of §37-2A-6 state as follows:

(a) Carriers that become regulated under subsection (a) of Section 37-2A-5 shall send notice to any existing retail customers who will be affected by the change in regulation under subsection (g) of Section 37-2A-4 at least 45 days prior to February 1, 2007.

(b) Carriers that become regulated under subsection (c) of Section 37-2A-5 shall send notice to any existing retail customers who will be affected by the change in regulation under subsection (g) of Section 37-2A-4 at least 45 days prior to the carrier's filing pursuant to subsection (c) of Section 37-2A-4.

(c) The notice provided for in subsection (a) or subsection (b) shall meet all of the following:

(1) Be posted on the carrier's web site and sent to the customer's billing address via a bill message or a bill insert. An incumbent local exchange carrier may also publish notice in a newspaper of general circulation in the county of the billing address, or an adjoining county if no newspaper of general circulation is published in the county.

(2) Summarize the terms and conditions under which the carrier will provide service on and after the effective date of the change in regulation.

(3) Notify the customer that he or she may obtain a copy of the terms and conditions from the carrier's web site or by contacting the carrier's business office by telephone.

(d) A customer who does not cancel service before the effective date of the new form of regulation shall be deemed to have accepted the new terms and conditions in their entirety until he or she cancels the service. No person who fails to receive actual notice, and no person who wishes to reject the new terms and conditions, or any part thereof, but fails to cancel service in a timely fashion shall have, directly or indirectly in any forum, a complaint or cause of action arising out of such failure or wish to reject.

As noted above, this Order is issued on the Commission's own motion to ease the transition of many telecommunications services from the regulated environment to the

unregulated environment. Further action and/or orders in this cause may be necessary to ensure that the transition remains smooth.

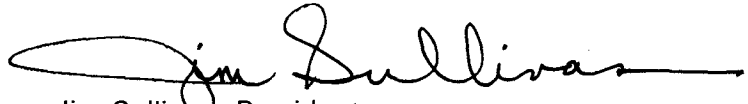
IT IS SO ORDERED BY THE COMMISSION.

IT IS FURTHER ORDERED BY THE COMMISSION, That jurisdiction in this cause is hereby retained for the issuance of any further order or orders as may appear to be just and reasonable in the premises.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 29th day of November, 2006.


ALABAMA PUBLIC SERVICE COMMISSION


Jim Sullivan, President


Jan Cook, Commissioner

*Susan D. Parker, Commissioner

ATTEST: A True Copy


Walter L. Thomas, Jr., Secretary

*Commissioner Susan D. Parker, having just assumed office and without adequate time for review and consideration, elected to abstain.