

LANDLINES

Senate Bill 636 (Substitute S-2)

Sponsor: Sen. Mike Nofs

House Committee: Energy and Technology

Senate Committee: Energy and Technology

Complete to 12-9-13

A SUMMARY OF SENATE BILL 636 AS PASSED BY THE SENATE 12-5-13

Briefly, the bill would do the following:

- Establish a procedure, beginning January 1, 2017, by which a telephone provider could discontinue landline service to an area.
- Change the annual registration and fee for an operator service provider or a payphone service provider to a one-time registration and fee.
- Require duplicative costs or revenues to be included in the annual access restructuring mechanism report compiled by the MPSC.
- Revise the monthly disbursement to an eligible provider from the Access Restructuring Mechanism, if the provider discontinues basic local exchange service (such as landline service).
- Require the MPSC to maintain a publicly available database of providers of toll and local exchange service in each exchange.

Senate Bill 636 would amend the Michigan Telecommunications Act. Currently, a telecommunication provider that provides either basic local exchange or toll service, or both, cannot discontinue such service to an exchange unless one or more alternative providers for toll service, or two or more alternative providers for basic local exchange service, are furnishing a comparable voice service to the customers in the exchange. A comparable voice service includes voice over internet protocol (VoIP) and wireless services. The act provides the current process that a telecommunications provider must follow before discontinuing the service, including notices to customers and the public and a determination by the Michigan Public Service Commission (MPSC) regarding whether the discontinuation were authorized under the act.

The bill would specify that the above would not apply after December 31, 2016. Beginning the next day, January 1, 2017, the telecommunications provider could discontinue basic local exchange or toll service by doing each of the following:

- ❖ At the same time it files a petition for discontinuance with the federal government under federal law, require the provider to also:
 - File a notice of the *proposed* discontinuance of service with the MPSC.

- Publish a notice of the *proposed* discontinuance in a newspaper of general circulation, provide notice to its customers, and provide notice to any interconnecting telecommunications providers.
- ❖ Upon approval of the Federal Communications Commission (FCC) to discontinue service, do all of the following at least 90 days before discontinuing service:
 - File a *notice of discontinuance of service* with the MPSC.
 - Publish a notice of the discontinuance of service in the newspaper, provide notice to its customers by mail or within a bill, and provide notice to any interconnecting telecommunications providers.

After January 1, 2017, *and only* in an area in which a provider has given notice of a proposed discontinuance or has discontinued service within the previous 90 days, a customer of that provider or any interconnecting telecommunication provider could request the MPSC to investigate the availability of comparable voice service with reliable access to 9-9-1 and emergency services.

The MPSC would have to complete an investigation within 180 days. If it found that the FCC failed to make a finding that the present and future public convenience and necessity is not adversely affected or that the FCC did not adequately address the issue, the MPSC must declare by order that an emergency exists in an area that is not serviced by at least one voice service provider offering comparable voice service with reliable access to 9-1-1 and emergency services – including the current provider. However, the provider would not be required to participate in the request for service process.

The willing provider could utilize any form of technology capable of providing comparable voice service and reliable 9-1-1 and emergency services, including VoIP and wireless services.

If the MPSC determined another provider is not capable of providing the required level of services, it must issue an order requiring the current telecommunications provider to provide those services utilizing any form of technology that the MPSC determines is capable of providing comparable services, but only until another willing provider is available. (This means that the provider which proposes to or has discontinued services could not be ordered to reestablish landline services if VoIP or wireless or another technology was able to produce a comparable level of service.)

An intrastate universal service fund under Section 316a could not be created or used to compensate or fund a willing provider or current telecommunications provider to provide service under this section (Section 313).

Further, the bill would specify that Section 313 would not create, restrict, or expand the MPSC's jurisdiction and authority:

- ❖ Established under Section 201.

- ❖ To carry out its obligations to enforce the rights, duties, and obligations of an entity established in Sections 251 and 252 of the federal Telecommunications Act and any applicable agreement or wholesale tariff or state law, rule, regulation, or order related to wholesale rights, duties, and obligations (including, but not limited to, interconnection and exchange voice traffic).
- ❖ To regulate switched access rates, terms, and conditions, including the implementation of federal or state law concerning intercarrier compensation.

"Comparable voice service" would include any two-way voice service offered through any form of technology, including VoIP and wireless service, that is capable of placing calls to and receiving calls from a provider of basic local exchange services.

"Reliable access to 9-1-1" would mean access to 9-1-1 provided in compliance with the emergency 9-1-1 Service Enabling Act and FCC requirements.

"Willing provider" would mean a provider that voluntarily participates in the request for service process.

Registration of operator service providers and providers of payphone service

Currently, the act requires such providers to register annually with the MPSC and to include a \$100 fee. The bill would instead require only a one-time registration and fee process.

ARM report revisions

Currently, the MPSC must report annually to the legislature and governor regarding the administration of the access restructuring mechanism (ARM). The bill would require the report to also identify any duplicative costs or revenues already being recovered by eligible providers through federal access recovery charges or the Connect America Fund. The MPSC must notify the FCC and all contributing providers of any identified duplications. A duplicative recovery identified by the MPSC would not be exempt from public disclosure under Section 210.

Further, each eligible provider is entitled to receive monthly disbursements from the ARM for up to 12 years from the establishment of the ARM. The bill would reduce this disbursement on a pro rata basis for each exchange in which the provider discontinued basic local exchange service. The reduction would be effective on the date of the service discontinuance.

Public database

The bill would eliminate a provision requiring the MPSC to submit an annual report describing the status of competition in telecommunication services in the state. Instead, the bill would require the MPSC to maintain a publicly available database of providers in each exchange that are licensed to or otherwise provide toll and local exchange service in the state.

Miscellaneous provisions

The bill would specify that a call made to a called party who is not located within the geographic area of the caller's local calling area or an adjacent area is not a local call if the tariff, service guide, or similar document containing the terms and conditions of the provider originating the call does not classify the call as a local call. (Underlining denotes new language added by the bill.)

Currently, a provider of basic local exchange service is prohibited from disconnecting the service to a customer before the resolution of a bona fide dispute. Instead, the bill would prohibit disconnection for nonpayment of that disputed amount.

FISCAL IMPACT:

Senate Bill 636 would have a negative, yet likely nominal, fiscal impact on the Michigan Public Service Commission (PSC) within the Department of Licensing and Regulatory Affairs (LARA) and would not have a significant fiscal impact on local units of government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.