

103^D CONGRESS
1ST SESSION

H. R. 1312

To recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1993

Mr. BOUCHER (for himself, Mr. FIELDS of Texas, Mr. SLATTERY, Mr. OXLEY, Mr. RICHARDSON, Mr. BARTON of Texas, Mr. LEHMAN, Mr. GILLMOR, Mr. HUGHES, Mr. HUTCHINSON, Mr. SPRATT, Mr. BLILEY, and Mr. HALL of Texas) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and the Judiciary

A BILL

To recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Exchange Infra-
5 structure Modernization Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) a ubiquitous high quality public switched
2 network will promote—

3 (A) universal service at reasonable rates;

4 (B) the universal availability of advanced
5 public switched network capabilities and infor-
6 mation services;

7 (C) the public health, safety, national de-
8 fense, education, security, and emergency pre-
9 paredness;

10 (D) the economic development and quality
11 of life by bringing access to advanced public
12 switched network capabilities to the American
13 people regardless of their location;

14 (E) new services and motivate new service
15 providers by providing uniform network acces-
16 sibility and interoperability;

17 (F) the international competitiveness of
18 American industry; and

19 (G) a seamless, nationwide, coordinated
20 communications infrastructure that will en-
21 hance the quality of life for all Americans;

22 (2) the increasing technological complexity and
23 need for ubiquitous infrastructure capability and
24 interoperability of the public switched network re-
25 quires—

1 (A) sharing of the public switched network
2 infrastructure and functionality between and
3 among local exchange carriers;

4 (B) joint coordinated network planning,
5 design and cooperative implementation among
6 all local exchange carriers; and

7 (C) development of standards for inter-
8 connection between the local exchange carrier
9 public switched network and any other person
10 by appropriate standards-setting bodies;

11 (3) the access provided by the local exchange
12 carrier public switched network to competitor car-
13 riers, information service providers and others, tie
14 these diverse elements into an interoperable national
15 telecommunications network;

16 (4) a ubiquitous, advanced local exchange car-
17 rier public switched network enhances the function
18 and availability of services provided by all carriers
19 and all other persons using the network; and

20 (5) it is in the public interest to promote devel-
21 opment of the public switched network by local ex-
22 change carriers because they—

23 (A) have universal service obligations for
24 geographically specific serving areas for which
25 they must construct a ubiquitous infrastructure;

1 (B) provide public switched network serv-
2 ices that are subject to regulation with respect
3 to rates, terms and conditions;

4 (C) must provide network access to their
5 own competitors on nondiscriminatory rates,
6 terms, and conditions; and

7 (D) are suppliers of last resort to cus-
8 tomers in their serving areas.

9 **SEC. 3. AMENDMENTS TO THE COMMUNICATIONS ACT OF**
10 **1934.**

11 (a) AMENDMENT TO SECTION 1.—Section 1 of the
12 Communications Act of 1934 (47 U.S.C. 151) is amend-
13 ed—

14 (1) by inserting “(a)” after “SECTION 1; and

15 (2) by adding at the end thereof the following
16 new subsection:

17 “(b) The Commission shall exercise its authority so
18 as to—

19 “(1) preserve and enhance universal service at
20 reasonable rates;

21 “(2) achieve universal availability of advanced
22 network capabilities and information services;

23 “(3) assure a seamless nationwide distribution
24 network through joint network planning, coordina-

1 tion, and service arrangements between and among
2 local exchange carriers;

3 “(4) maintain high standards of quality for ad-
4 vanced network services; and

5 “(5) assure adequate communication for the
6 public health, safety, defense, education, national se-
7 curity and emergency preparedness.”.

8 (b) AMENDMENT TO SECTION 2.—Section 2(b) of the
9 Communications Act of 1934 (47 U.S.C. 152(b)) is
10 amended by striking “227” and inserting “229”.

11 (c) AMENDMENT TO SECTION 3.—Section 3 of the
12 Communications Act of 1934 (47 U.S.C. 153) is amended
13 by adding at the end thereof the following:

14 “(hh) The term ‘local exchange carrier’ means a car-
15 rier which—

16 “(1) is required to provide upon request, under
17 tariff or subject to other government oversight (by
18 the Commission or a State commission), interstate
19 or intrastate access services and telephone exchange
20 service;

21 “(2) is, or was, a participant in one or more
22 interstate pools established by the Commission, or
23 would have been required to participate in one or
24 more such pools had the carrier been engaged in
25 interstate and intrastate access and telephone ex-

1 change service while such participation was manda-
2 tory;

3 “(3) is subject to the requirements imposed by
4 the Commission or a State commission related to the
5 provision of equal access; and

6 “(4) conforms with the provisions of the North
7 American Numbering Plan applicable to the assign-
8 ment of numbering resources for telephone exchange
9 service, as defined by the Plan’s Administrator.

10 “(ii) The term ‘Modification of Final Judgment’
11 means the decree entered August 24, 1982, in United
12 States v. Western Electric, Civil Action No. 82-0192
13 (United States District Court, District of Columbia).”.

14 (d) AMENDMENT TO TITLE II.—Title II of the Com-
15 munications Act of 1934 (47 U.S.C. 201 et seq.) is
16 amended by adding at the end thereof the following new
17 sections:

18 **“SEC. 228. NETWORK PLANNING AND STANDARDS.**

19 “The Commission shall, within 180 days following
20 the date of the enactment of this section, prescribe regula-
21 tions that require—

22 “(1) joint coordinated network planning, design
23 and cooperative implementation among all local ex-
24 change carriers in the provision of public switched
25 network infrastructure and services; and

1 “(2) development of standards for interconnec-
2 tion between the local exchange carrier public
3 switched network and any other person by appro-
4 priate standard-setting bodies.

5 **“SEC. 229. INFRASTRUCTURE SHARING ARRANGEMENTS**
6 **BETWEEN OR AMONG LOCAL EXCHANGE CAR-**
7 **RIERS.**

8 “(a) SHARING ARRANGEMENT REGULATIONS.—
9 Within 180 days following the date of the enactment of
10 this section, the Commission shall prescribe regulations
11 that require local exchange carriers to share public
12 switched network infrastructure and functionality with re-
13 questing local exchange carriers lacking economies of scale
14 or scope, as defined in subsection (b).

15 “(b) DEFINITION.—For the purposes of this section,
16 the term ‘local exchange carrier lacking economies of scale
17 or scope’ means any local exchange carrier which serves
18 a geographic area for which it lacks economies of scale
19 or scope for the particular required network functionality.

20 “(c) CONTENT OF REGULATIONS.—The regulations
21 governing such sharing between or among local exchange
22 carriers shall—

23 “(1) promote economically efficient decision-
24 making by local exchange carriers;

1 “(2) not require any local exchange carrier to
2 make any decision that is uneconomic or adverse to
3 the public interest;

4 “(3) permit, but not require, joint ownership
5 and operation of public switched network infrastruc-
6 ture and services by or among local exchange car-
7 riers;

8 “(4) limit their applicability to local exchange
9 carriers;

10 “(5) ensure that a local exchange carrier, when
11 sharing any infrastructure or providing any
12 functionality to other local exchange carriers pursu-
13 ant to this section, shall not be deemed a common
14 carrier for hire when acting in this capacity, and
15 such arrangements shall not be deemed common car-
16 rier services by the Commission or by any State
17 commission;

18 “(6) contain general guidelines to ensure that
19 fair and reasonable terms and conditions for and in
20 connection with the business arrangement described
21 in this section are determined by local exchange car-
22 riers;

23 “(7) establish conditions that promote coopera-
24 tion between local exchange carriers; and

1 “(8) ensure that all regulatory rights and obli-
2 gations for and in connection with the business ar-
3 rangements described in this section shall be deter-
4 mined exclusively in accordance with the regulations
5 prescribed pursuant to this section.

6 “(d) RULE OF CONSTRUCTION.—Nothing in this Act
7 shall be construed to enact into law any economic support
8 currently provided to telephone exchange service or enact
9 into law any prohibition with regard to new economic sup-
10 port mechanisms for telephone exchange service or any
11 service other than telephone exchange service.

12 **“SEC. 230. SIGNALLING.**

13 “Notwithstanding any other provision of law or any
14 restriction or obligation imposed before the date of enact-
15 ment of this section pursuant to the Modification of Final
16 Judgment, no local exchange carrier shall be prohibited
17 from transporting or processing signalling and informa-
18 tion for another local exchange carrier in adjoining or rea-
19 sonably proximate serving areas upon request of that local
20 exchange carrier to the same extent that the providing
21 local exchange carrier is permitted to engage in such ac-
22 tivities for itself.

23 **“SEC. 231. INTRASTATE COMMUNICATION.**

24 “Except as provided in section 2, nothing in this Act
25 shall be construed to alter, limit, or supersede the author-

1 ity of any State with respect to the regulation of intrastate
2 communication service.”.

3 **SEC. 4. ANTITRUST IMMUNITY FOR LOCAL EXCHANGE CAR-**
4 **RIERS.**

5 (a) INAPPLICABILITY OF ANTITRUST LAWS.—Noth-
6 ing contained in any Federal or State antitrust law shall
7 render unlawful any individual or concerted action taken
8 by a local exchange carrier, or its directors, officers,
9 agents, employees, affiliates, subsidiaries, joint ventures,
10 counsel or other persons purporting to act on behalf of
11 such carrier, pursuant to sections 228, 229, and 230 of
12 the Communications Act of 1934, including (but not lim-
13 ited to) lobbying before Congress or the Federal Commu-
14 nications Commission or communicating by any means
15 with other local exchange carriers.

16 (b) DEFINITIONS.—For purposes of this Act, the fol-
17 lowing terms are defined:

18 (1) The term “Federal antitrust laws” means
19 the Acts known as the Sherman Act (15 U.S.C. 1
20 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the
21 Robinson-Patman Act (15 U.S.C. 13 et seq.), the
22 Federal Trade Commission Act (15 U.S.C. 41 et
23 seq.), all subsequent amendments of such Acts, and
24 any and all other laws which have been or are here-
25 after enacted to regulate or prevent contracts, com-

1 combinations, or conspiracies in restraint of trade or
2 monopolistic practices.

3 (2) The term “State antitrust laws” means all
4 laws enacted by States or territories within the Unit-
5 ed States or their political subdivisions which are
6 patterned after the Federal laws known as the Sher-
7 man Act (15 U.S.C. 1 et seq.), the Clayton Act (15
8 U.S.C. 12 et seq.), the Robinson-Patman Act (15
9 U.S.C. 13 et seq.), the Federal Trade Commission
10 Act (15 U.S.C. 41 et seq.), or any subsequent
11 amendments to such Acts, or any other State laws
12 which are not patterned after such Federal Acts or
13 amendments but which are designed to regulate or
14 prevent contracts, combinations, or conspiracies in
15 restraint of trade or monopolistic practices.

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