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An Act To Increase Competition and Ensure a Robust Information and Telecommunications Market

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §102, sub-§21-B is enacted to read:

21-B. Voice network service provider. "Voice network service provider" means a voice service provider that offers its subscribers the means to initiate or receive voice communications using the public switched telephone network.

Sec. 2. 35-A MRSA §7104, sub-§2, as amended by PL 2011, c. 623, Pt. B, §13, is further amended to read:

2. General availability. ~~The~~Until December 31, 2021, the commission shall seek to ensure that provider of last resort service is available at reasonably comparable rates to consumers throughout all areas of the State ~~at reasonably comparable rates~~in which the service is available pursuant to section 7221-A.

Sec. 3. 35-A MRSA §7104, sub-§3, as amended by PL 2013, c. 600, §2, is further amended to read:

3. Authority. The commission shall adopt rules to implement this section and may require voice network service providers to contribute to a state universal service fund to support programs consistent with the goals of applicable provisions of this Title and the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56. Prior to requiring that voice network service providers contribute to a state universal service fund, the commission shall assess the telecommunications needs of the State's consumers and establish the level of support required to meet those needs. If the commission establishes a state universal service fund pursuant to this section, the commission shall contract with an appropriate independent fiscal agent that is not a state entity to serve as administrator of the state universal service fund. Funds contributed to a state universal service fund are not state funds. Rules and any state universal service fund requirements established by the commission pursuant to this section must:

- A. Be reasonably designed to maximize federal assistance available to the State for universal service purposes;
- B. Meet the State's obligations under the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56;
- C. Be consistent with the goals of the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56;
- D. Ensure that any requirements regarding contributions to a state universal service fund be nondiscriminatory and competitively neutral; and

G. Require, if a voice network service provider recovers its contributions under this section by means of a charge placed on a bill issued to a customer, explicit identification on that bill of any charge imposed under this section.

~~For purposes of this section, "voice network service provider" means a voice service provider that offers its subscribers the means to initiate or receive voice communications using the public switched telephone network. After December 31, 2021, the commission may not require contributions to the state universal service fund and may not disburse or authorize disbursement of any money from the fund to any voice network service provider for the purpose of ensuring reasonably comparable consumer rates. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 4. 35-A MRSA §7201, sub-§7, as enacted by PL 2011, c. 623, Pt. A, §18, is amended to read:

7. Provider of last resort service. "Provider of last resort service" means a flat-rate service with voice grade access to the public switched telephone network; local usage within the basic service calling areas of incumbent local exchange carriers as of January 1, 2012; dual-tone multifrequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation for qualifying low-income customers; ~~and the capacity to maintain uninterrupted voice service during a power failure, either through the incorporation into the network or network interface devices of suitable battery backup or through electric current.~~

Sec. 5. 35-A MRSA §7221, as enacted by PL 2011, c. 623, Pt. A, §18, is repealed.

Sec. 6. 35-A MRSA §7221-A is enacted to read:

§ 7221-A. Designation of service providers

1. Initial designation of service providers. Until December 31, 2015, an entity that was an incumbent local exchange carrier as of January 1, 2012 shall provide provider of last resort service within its service area.

2. Subsequent provision of service. After December 31, 2015 and until December 31, 2021, provider of last resort service is available and the commission may designate a voice network service provider to provide provider of last resort service in accordance with the following.

A. No voice network service provider may be required to provide provider of last resort service without its express consent.

B. Provider of last resort service is not available and the commission may not designate any voice network service provider to provide provider of last resort service in any United States census tract area in which the commission determines, based on the national broadband map developed by the United States Department of Commerce, National Telecommunications and Information Administration, there is:

(1) In addition to the incumbent local exchange carrier, at least one voice network service provider that provides telephone exchange service to at least 94% of the households in the census tract area; and

(2) At least one mobile telecommunications services provider that provides mobile telecommunications services to at least 94% of the households in the census tract area.

Areas of the State other than those areas determined by the commission to meet the requirements of this paragraph are referred to in this subsection as potential provider of last resort service areas.

C. The commission shall by rule develop a process for designating a voice network service provider to provide provider of last resort service in potential provider of last resort service areas in accordance with the following:

(1) An incumbent local exchange carrier designated pursuant to subsection 1 that voluntarily agrees to continue providing provider of last resort service in a potential provider of last resort service area remains the provider of provider of last resort service in that area until the earliest of the following:

(a) The carrier notifies the commission that it no longer agrees to provide the service in that area;

(b) The commission designates another voice network service provider to provide provider of last resort service in that area; or

(c) December 31, 2021; and

(2) In order to encourage voice network service providers to provide provider of last resort service in potential provider of last resort service areas, the commission may make available and provide funds collected under section 7104 to providers of provider of last resort service.

3. End of provider of last resort service. After December 31, 2021, provider of last resort service is not available and the commission may not designate any voice network service provider to provide provider of last resort service in any area of the State.

Sec. 7. Commission report. The Public Utilities Commission shall examine all laws and rules relating to provider of last resort service and determine any changes that may be needed to conform those rules and laws to the provisions of this Act. The commission shall submit a report of its findings, together with any necessary draft legislation to implement its recommendations, to the Joint Standing Committee

on Energy, Utilities and Technology by December 15, 2015. The Joint Standing Committee on Energy, Utilities and Technology may report out a bill relating to provider of last resort service to the Second Regular Session of the 127th Legislature.

SUMMARY

This bill makes the following changes in the laws governing provider of last resort service:

1. Removes the requirement that a provider of provider of last resort service have the capacity to maintain uninterrupted voice service during a power failure, either through the incorporation into the network or network interface devices of suitable battery backup or through electric current;

2. Provides that after December 31, 2015 and until December 31, 2021:

A. No voice network service provider may be required to provide provider of last resort service without its express consent;

B. Provider of last resort service will not be provided in any United States census tract area in which there are, in addition to the incumbent local exchange carrier, at least one voice network service provider that provides telephone exchange service to at least 94% of the households in the census tract area and at least one mobile telecommunications services provider that provides mobile telecommunications services to at least 94% of the households in the census tract area;

C. For all other areas of the State, referred to as potential provider of last resort service, or POLR, areas, the Public Utilities Commission is required to develop rules establishing a process for designating willing providers of provider of last resort service. An incumbent local exchange carrier that voluntarily agrees to continue providing provider of last resort service in a potential POLR area remains the provider of provider of last resort service in that area until no longer willing to provide the service or until replaced by another provider or until December 31, 2021, whichever occurs first; and

D. In order to encourage voice network service providers to provide provider of last resort service in potential POLR areas, the commission is allowed to make available and provide state universal service fund money to providers of provider of last resort service;

3. Provides that after December 31, 2021:

A. Provider of last resort service is not available and the commission may not designate any voice network service provider to provide provider of last resort service in any area of the State; and

B. The commission is prohibited from requiring contributions to the state universal service fund and may not disburse or authorize disbursement of any money from the fund to any voice network service provider for the purpose of ensuring reasonably comparable consumer rates; and

4. Directs the commission to examine all laws and rules relating to provider of last resort service and determine any changes that may be needed to conform those rules and laws to the provisions of this bill. The commission is directed to submit a report, together with any necessary draft legislation to implement its recommendations, to the Joint Standing Committee on Energy, Utilities and Technology by December

15, 2015. The committee is authorized to report out a bill relating to provider of last resort service to the Second Regular Session of the 127th Legislature.