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LAW/KR

P.L.2013, CHAPTER 181, *approved January 13, 2014*
Assembly, No. 1523 (*Second Reprint*)

1 AN ACT concerning certain information ¹and charges¹ provided by
2 telecommunications companies and amending P.L.1991, c.428
3 ¹and P.L.2003, c.247¹.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 4 of P.L.1991, c.428 (C.48:2-21.19) is amended to
9 read as follows:

10 4. a. (1) Notwithstanding the provisions of R.S.48:2-18,
11 R.S.48:2-21, section 31 of P.L.1962, c.198 (C.48:2-21.2), R.S.48:3-
12 1, or any other law to the contrary, the board shall not regulate, fix
13 ^{2,2} or prescribe the rates, tolls, charges, rate structures, terms and
14 conditions of service, rate base, rate of return, and cost of service,
15 of competitive services.

16 (2) The board **may** shall not require the local exchange
17 telecommunications company or interexchange telecommunications
18 carrier to file and maintain tariffs for ²retail² competitive
19 ²telecommunications² services, but shall require any terms and
20 conditions of ²retail² competitive ²telecommunications² services
21 to be made available for public inspection on the Internet website of
22 any local exchange telecommunications company or interexchange
23 telecommunications carrier providing ²such² those² services ¹, and
24 ²to² a printed copy of those terms and conditions² be provided
25 ²in hard copy² upon the request of a customer. Nothing in this
26 section shall affect the ability of a local exchange
27 telecommunications company or interexchange telecommunications
28 carrier, in their discretion, to file tariffs with the board¹.

29 b. The board is authorized to determine, after notice and
30 hearing, whether a telecommunications service is a competitive
31 service. In making such a determination, the board shall develop
32 standards of competitive service which, at a minimum, shall include
33 evidence of ease of market entry; presence of other competitors;
34 and the availability of like or substitute services in the relevant
35 geographic area.

36 c. The board may determine, by rule, order, or in accordance
37 with the provisions of a plan filed pursuant to subsection a. of
38 section 3 of **this act** P.L.1991, c.428 (C.48:2-21.18), what reports

EXPLANATION – Matter enclosed in bold-faced brackets **this** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ARG committee amendments adopted June 18, 2012.

²Senate SEG committee amendments adopted December 16, 2013.

1 are necessary to monitor the competitiveness of any
2 telecommunications service.

3 d. The board shall have the authority to reclassify any
4 telecommunications service that it has previously found to be
5 competitive if, after notice and hearing, it determines that sufficient
6 competition is no longer present, upon application of the criteria set
7 forth in subsection b. of this section. Upon such a reclassification,
8 the provisions of subsection a. of this section shall no longer apply
9 and the board may determine such rates for that telecommunications
10 service which it finds to be just and reasonable. The board,
11 however, shall continue to monitor the telecommunications service
12 and, whenever the board shall find that the telecommunications
13 service has again become sufficiently competitive pursuant to
14 subsection b. of this section, the board shall again apply the
15 provisions of subsection a. of this section.

16 e. Notwithstanding the provisions of subsection a. of this
17 section, the following safeguards shall apply to the offering of any
18 competitive service by a local exchange telecommunications
19 company:

20 (1) the local exchange telecommunications company shall
21 unbundle each noncompetitive service which is incorporated in the
22 competitive service and shall make all such noncompetitive services
23 separately available to any customer under tariffed terms and
24 conditions, including price, that are identical to those used by the
25 local exchange telecommunications company in providing its
26 competitive service;

27 (2) the rate which a local exchange telecommunications
28 company charges for a competitive service shall exceed the rates
29 charged to others for any noncompetitive services used by the local
30 exchange telecommunications company to provide the competitive
31 service;

32 (3) **【tariffs for competitive services filed with the board shall**
33 **either be in the public records, or, if the board determines that the**
34 **rates are proprietary, shall be filed under seal and made available**
35 **under the terms of an appropriate protective agreement, such as**
36 **those used in cases before the board】¹**【(Deleted by amendment,**
37 **P.L. , c.) (pending before the Legislature as this bill)】 tariffs for**
38 **competitive services that may be filed with the board shall either be**
39 **in the public records, or, if the board determines that the rates are**
40 **proprietary, shall be filed under seal and made available under the**
41 **terms of an appropriate protective agreement, such as those used in**
42 **cases before the board¹ **; and******

43 (4) nothing in **【this act】** P.L.1991, c.428 (C.48:2-21.16 et seq.)
44 shall limit the authority of the board, pursuant to R.S.48:3-1, to
45 ensure that local exchange telecommunications companies do not
46 make or impose unjust preferences, discriminations, or

1 classifications for noncompetitive services.
2 (cf: P.L.1991, c.428, s.4)

3

4 ¹2. Section 1 of P.L.2003, c.247 (C.48:3-2.3) is amended to read
5 as follows:

6 1. a. Notwithstanding the provisions of any law, rule,
7 regulation, or order to the contrary, the board shall not allow a
8 utility to assess a late payment charge on an unpaid bill unless
9 ²[such] the² charge is provided for in the utility's applicable rate
10 schedule approved by the board. A late payment charge shall not be
11 approved by the board if ²[it] the charge² is applicable to bills less
12 than 25 days after rendering. A late payment charge shall not be
13 approved for a rate schedule applicable to a State, county or
14 municipal government entity or any residential ratepayer.

15 As used in this subsection, a "utility" means a public utility, as
16 public utility is defined in R.S.48:2-13 and including a natural gas
17 pipeline utility as natural gas pipeline utility is defined in section 2
18 of P.L.1952, c.166 (C.48:10-3), and a municipally-operated utility,
19 insofar as the board's jurisdiction is extended to the municipally-
20 operated utility under any applicable law. "Utility" shall not mean a
21 local exchange telecommunications company or interexchange
22 telecommunications carrier providing a competitive
23 ²[telecommunications]² service as determined by the board
24 pursuant to section 4 of P.L.1991, c.428 (C.48:2-21.19).

25 b. The board may adopt, pursuant to the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
27 regulations necessary to effectuate the purposes of subsection a. of
28 this section.¹

29 (cf: P.L.2003, c.247, s.1)

30

31 ¹[2.] 3.¹ This act shall take effect on the 180th day after the
32 date of enactment, but the Board of Public Utilities may take such
33 anticipatory administrative action in advance thereof as shall be
34 necessary for the implementation of this act.

35

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37

38

39 Removes requirement that certain telecommunications
40 companies file tariffs with BPU; requires them to provide certain
41 information to public via their website; allows them to assess late
42 payment charge on unpaid bills.

ASSEMBLY, No. 1523

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblywoman ANNETTE QUIJANO
District 20 (Union)
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)
Assemblywoman CELESTE M. RILEY
District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Removes requirement that certain telecommunications companies file tariffs with BPU; requires them to provide certain service information to the public via their website.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning certain information provided by
2 telecommunications companies and amending P.L.1991, c.428.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 4 of P.L.1991, c.428 (C.48:2-21.19) is amended to
8 read as follows:

9 4. a. (1) Notwithstanding the provisions of R.S.48:2-18,
10 R.S.48:2-21, section 31 of P.L.1962, c.198 (C.48:2-21.2), R.S.48:3-
11 1, or any other law to the contrary, the board shall not regulate, fix
12 or prescribe the rates, tolls, charges, rate structures, terms and
13 conditions of service, rate base, rate of return, and cost of service,
14 of competitive services.

15 (2) The board **[may]** shall not require the local exchange
16 telecommunications company or interexchange telecommunications
17 carrier to file and maintain tariffs for competitive
18 telecommunications services, but shall require any terms and
19 conditions of competitive telecommunications services to be made
20 available for public inspection on the Internet website of any local
21 exchange telecommunications company or interexchange
22 telecommunications carrier providing such services.

23 b. The board is authorized to determine, after notice and
24 hearing, whether a telecommunications service is a competitive
25 service. In making such a determination, the board shall develop
26 standards of competitive service which, at a minimum, shall include
27 evidence of ease of market entry; presence of other competitors;
28 and the availability of like or substitute services in the relevant
29 geographic area.

30 c. The board may determine, by rule, order, or in accordance
31 with the provisions of a plan filed pursuant to subsection a. of
32 section 3 of **[this act]** P.L.1991, c.428 (C.48:2-21.18), what reports
33 are necessary to monitor the competitiveness of any
34 telecommunications service.

35 d. The board shall have the authority to reclassify any
36 telecommunications service that it has previously found to be
37 competitive if, after notice and hearing, it determines that sufficient
38 competition is no longer present, upon application of the criteria set
39 forth in subsection b. of this section. Upon such a reclassification,
40 the provisions of subsection a. of this section shall no longer apply
41 and the board may determine such rates for that telecommunications
42 service which it finds to be just and reasonable. The board,
43 however, shall continue to monitor the telecommunications service
44 and, whenever the board shall find that the telecommunications
45 service has again become sufficiently competitive pursuant to

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 subsection b. of this section, the board shall again apply the
2 provisions of subsection a. of this section.

3 e. Notwithstanding the provisions of subsection a. of this
4 section, the following safeguards shall apply to the offering of any
5 competitive service by a local exchange telecommunications
6 company:

7 (1) the local exchange telecommunications company shall
8 unbundle each noncompetitive service which is incorporated in the
9 competitive service and shall make all such noncompetitive services
10 separately available to any customer under tariffed terms and
11 conditions, including price, that are identical to those used by the
12 local exchange telecommunications company in providing its
13 competitive service;

14 (2) the rate which a local exchange telecommunications
15 company charges for a competitive service shall exceed the rates
16 charged to others for any noncompetitive services used by the local
17 exchange telecommunications company to provide the competitive
18 service;

19 (3) ~~tariffs for competitive services filed with the board shall~~
20 ~~either be in the public records, or, if the board determines that the~~
21 ~~rates are proprietary, shall be filed under seal and made available~~
22 ~~under the terms of an appropriate protective agreement, such as~~
23 ~~those used in cases before the board~~ (Deleted by amendment,
24 P.L. , c.) (pending before the Legislature as this bill) ; and

25 (4) nothing in ~~this act~~ P.L.1991, c.428 (C.48:2-21.16 et seq.)
26 shall limit the authority of the board, pursuant to R.S.48:3-1, to
27 ensure that local exchange telecommunications companies do not
28 make or impose unjust preferences, discriminations, or
29 classifications for noncompetitive services.

30 (cf: P.L.1991, c.428, s.4)

31

32 2. This act shall take effect on the 180th day after the date of
33 enactment, but the Board of Public Utilities may take such
34 anticipatory administrative action in advance thereof as shall be
35 necessary for the implementation of this act.

36

37

38

STATEMENT

39

40 This bill prohibits the Board of Public Utilities (“board”)
41 from requiring local exchange telecommunications companies or
42 interexchange telecommunications carriers to file and maintain
43 tariffs for competitive telecommunications services, and instead
44 requires any terms and conditions of competitive
45 telecommunications services to be made available for public
46 inspection on the Internet website of the companies providing those
47 services.

ASSEMBLY REGULATORY OVERSIGHT AND GAMING
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1523

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2012

The Assembly Regulatory Oversight and Gaming Committee reports favorably and with committee amendments Assembly Bill No. 1523.

This bill, as amended by committee, would prohibit the Board of Public Utilities (“board”) from requiring local exchange telecommunications companies or interexchange telecommunications carriers to file and maintain tariffs for competitive telecommunications services, and instead requires any terms and conditions of competitive telecommunications services to be made available for public inspection on the Internet website of the companies providing those services, or a copy thereof, to be provided upon the request of a customer.

The bill, as amended, would not prohibit a local exchange telecommunications company or interexchange telecommunication carrier from filing tariffs with the board, in the company’s or carrier’s discretion. Any such filed tariffs would be in the public records, or, if the board determines that the rates are proprietary, would be filed under seal and made available under terms of an appropriate protective agreement.

Finally, as amended, the bill would remove the provision of law that prohibits local exchange telecommunications companies and interexchange telecommunications carriers providing competitive telecommunications services from assessing a late payment charge on any unpaid bill.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

PROPOSED COMMITTEE AMENDMENTS:

The committee amendments would:

1) remove the provision that prohibits local exchange telecommunications companies and interexchange telecommunications

carriers providing competitive telecommunications services from assessing a late payment charge on any unpaid bill;

2) require terms and conditions of competitive telecommunications services to be provided to a customer, upon request;

3) specify that the bill does not prohibit a local exchange telecommunications company or interexchange telecommunication carrier from filing tariffs with the board, in the company's or carrier's discretion; and

4) reinsert the provision of law requiring any tariffs to be filed as public records or under seal.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1523

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2013

The Senate Economic Growth Committee reports favorably and with committee amendments Senate Bill No. 1523 (1R).

As amended and reported, this bill prohibits the Board of Public Utilities (BPU) from requiring a local exchange telecommunications company (company) or interexchange telecommunications carrier (carrier) to file and maintain tariffs for retail competitive telecommunications services, and instead, requires any terms and conditions of retail competitive telecommunications services be made available for public inspection on the Internet website of the company or carrier, or a printed copy thereof, be provided upon the request of a customer.

The bill does not prohibit a company or carrier from filing tariffs with the BPU, in the company's or carrier's discretion. Those filed tariffs are to be in the public record or, if the BPU determines that the rates are proprietary, are to be filed under seal and made available under the terms of an appropriate protective agreement.

Finally, the bill removes the provision of law that prohibits companies and carriers providing competitive telecommunications services from assessing a late payment charge on any unpaid bill. Current law prohibits a telephone utility from assessing a late payment charge to a residential or government customer of the telephone utility.

The committee amended the bill to: 1) apply the requirement of a company's or carrier's provision, on its website, of terms and conditions of competitive telecommunications services to when those services are provided to retail customers; and 2) make grammatical corrections and consistency of terms corrections.

ASSEMBLY, No. 2847

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 10, 2010

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Salem, Cumberland and Gloucester)
Assemblywoman ANNETTE QUIJANO
District 20 (Union)
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)
Assemblywoman CELESTE M. RILEY
District 3 (Salem, Cumberland and Gloucester)

SYNOPSIS

Removes requirement that certain telecommunications companies file tariffs with BPU; requires them to provide certain service information to the public via their website.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/11/2010)

1 AN ACT concerning certain information provided by
2 telecommunications companies and amending P.L.1991, c.428.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 4 of P.L.1991, c.428 (C.48:2-21.19) is amended to
8 read as follows:

9 4. a. Notwithstanding the provisions of R.S.48:2-18, R.S.48:2-
10 21, section 31 of P.L.1962, c.198 (C.48:2-21.2), R.S.48:3-1, or any
11 other law to the contrary, the board shall not regulate, fix or
12 prescribe the rates, tolls, charges, rate structures, terms and
13 conditions of service, rate base, rate of return, and cost of service,
14 of competitive services. The board **[may]** shall not require the
15 local exchange telecommunications company or interexchange
16 telecommunications carrier to file and maintain tariffs for
17 competitive telecommunications services, but shall require any
18 terms and conditions of competitive telecommunications services to
19 be made available for public inspection on the Internet website of
20 any local exchange telecommunications company or interexchange
21 telecommunications carrier providing such services.

22 b. The board is authorized to determine, after notice and
23 hearing, whether a telecommunications service is a competitive
24 service. In making such a determination, the board shall develop
25 standards of competitive service which, at a minimum, shall include
26 evidence of ease of market entry; presence of other competitors;
27 and the availability of like or substitute services in the relevant
28 geographic area.

29 c. The board may determine, by rule, order, or in accordance
30 with the provisions of a plan filed pursuant to subsection a. of
31 section 3 of **[this act]** P.L.1991, c.428 (C.48:2-21.18), what reports
32 are necessary to monitor the competitiveness of any
33 telecommunications service.

34 d. The board shall have the authority to reclassify any
35 telecommunications service that it has previously found to be
36 competitive if, after notice and hearing, it determines that sufficient
37 competition is no longer present, upon application of the criteria set
38 forth in subsection b. of this section. Upon such a reclassification,
39 subsection a. of this section shall no longer apply and the board
40 may determine such rates for that telecommunications service
41 which it finds to be just and reasonable. The board, however, shall
42 continue to monitor the telecommunications service and, whenever
43 the board shall find that the telecommunications service has again
44 become sufficiently competitive pursuant to subsection b. of this

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 section, the board shall again apply the provisions of subsection a.
2 of this section.

3 e. Notwithstanding the provisions of subsection a. of this
4 section, the following safeguards shall apply to the offering of any
5 competitive service by a local exchange telecommunications
6 company:

7 (1) the local exchange telecommunications company shall
8 unbundle each noncompetitive service which is incorporated in the
9 competitive service and shall make all such noncompetitive services
10 separately available to any customer under tariffed terms and
11 conditions, including price, that are identical to those used by the
12 local exchange telecommunications company in providing its
13 competitive service;

14 (2) the rate which a local exchange telecommunications
15 company charges for a competitive service shall exceed the rates
16 charged to others for any noncompetitive services used by the local
17 exchange telecommunications company to provide the competitive
18 service;

19 (3) tariffs for competitive services filed with the board shall
20 either be in the public records, or, if the board determines that the
21 rates are proprietary, shall be filed under seal and made available
22 under the terms of an appropriate protective agreement, such as
23 those used in cases before the board; and

24 (4) nothing in **[this act]** P.L.1991, c.428 (C.48:2-21.16 et seq.)
25 shall limit the authority of the board, pursuant to R.S.48:3-1, to
26 ensure that local exchange telecommunications companies do not
27 make or impose unjust preferences, discriminations, or
28 classifications for noncompetitive services.

29 (cf: P.L.1991, c.428, s.4)

30

31 2. This act shall take effect on the 30th day after the date of
32 enactment, but the Board of Public Utilities may take such
33 anticipatory administrative action in advance thereof as shall be
34 necessary for the implementation of this act.

35

36

37

STATEMENT

38

39 This bill prohibits the Board of Public Utilities (“board”) from
40 requiring local exchange telecommunications companies or
41 interexchange telecommunications carriers to file and maintain
42 tariffs for competitive telecommunications services, but requires
43 any terms and conditions of competitive telecommunications
44 services to be made available for public inspection on the Internet
45 website of the companies providing those services.

ASSEMBLY REGULATORY OVERSIGHT AND GAMING
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2847

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2010

The Assembly Regulatory Oversight and Gaming Committee reports favorably and with committee amendments Assembly No. 2847.

This bill, as amended, prohibits the Board of Public Utilities (“board”) from requiring local exchange telecommunications companies or interexchange telecommunications carriers to file and maintain tariffs for competitive telecommunications services, and instead requires any terms and conditions of competitive telecommunications services to be made available for public inspection on the Internet website of the companies providing those services.

COMMITTEE AMENDMENTS

The committee amendments to the bill:

1) remove the requirement (in paragraph (3) of subsection e. of section 1 of the bill) that tariffs for competitive services be filed with the board given that the bill eliminates the requirement that these companies file and maintain tariffs for competitive telecommunications services; and

2) change the effective date of the bill from 30 to 180 days after the date of enactment of the bill into law.