

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 445
SENATE BILL 822

AN ACT TO PERMIT THE PROVISION OF SHARED USE AND RESALE OF
TELEPHONE SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-110 reads as rewritten:

"§ 62-110. **Certificate of convenience and necessity.**—(a) Except as provided for bus companies in Article 12 of this Chapter, no public utility shall hereafter begin the construction or operation of any public utility plant or system or acquire ownership or control thereof, either directly or indirectly, without first obtaining from the Commission a certificate that public convenience and necessity requires, or will require, such construction, acquisition, or operation: Provided, that this section shall not apply to construction into territory contiguous to that already occupied and not receiving similar service from another public utility, nor to construction in the ordinary conduct of business.

(b) The Commission shall be authorized to issue a certificate to any person applying to the Commission to offer long distance services as a public utility as defined in G.S. 62-3(23)a.6., provided that such person is found to be fit, capable, and financially able to render such service, and that such additional service is required to serve the public interest effectively and adequately; provided further, that in such cases the Commission shall consider the impact on the local exchange customers and only permit such additional service if the Commission finds that it will not jeopardize reasonably affordable local exchange service.

Notwithstanding any other provision of law, the terms, conditions, rates, and interconnections for long distance services offered on a competitive basis shall be regulated by the Commission in accordance with the public interest. In promulgating rules necessary to implement this provision, the Commission shall consider whether uniform or nonuniform application of such rules is consistent with the public interest. Provided further that the Commission shall consider whether the charges for the provision of interconnections should be uniform.

For purposes of this section, long distance services shall include the transmission of messages or other communications between two or more central offices wherein such central offices are not connected on July 1, 1983, by any extended area service, local measured service, or other local calling arrangement.

(c) The Commission shall be authorized, consistent with the public interest, to adopt procedures for the issuance of a special certificate to any person for the limited purpose of offering telephone service to the public by means of coin, coinless, or key-

operated pay telephone instruments. This service may be in addition to or in competition with public telephone services offered by the certificated telephone company in the service area. The certificated local exchange telephone company in the service area where any new pay telephone service is proposed shall be the only provider of the access line from the pay instrument to the network, and the rates approved by the Commission for this access line shall be fully compensatory, reflect the business nature of the service, and shall be set on a measured usage rate basis where facilities are available or on a message rate basis otherwise. The Commission shall promulgate rules to implement the service authorized by this section, recognizing the competitive nature of the offerings and, notwithstanding any other provision of law, the Commission shall determine the extent to which such services shall be regulated and to the extent necessary to protect the public interest regulate the terms, conditions, and rates for such service and the terms and conditions for interconnection to the local exchange network.

(d) The Commission shall be authorized, consistent with the public interest and notwithstanding any other provision of law, to adopt procedures for the purpose of allowing shared use and/or resale of any telephone service provided to persons who occupy the same contiguous premises (as such term shall be defined by the Commission); provided, however, that there shall be no 'networking' of any services authorized under this section whereby two or more premises where such services are provided are connected, and provided further that the certificated local exchange telephone company shall be the only provider of access lines or trunks connecting such authorized service to the telephone network, and that the local service rates approved by the Commission for local exchange lines or trunks being shared or resold shall be fully compensatory and on a measured usage basis where facilities are available or on a message rate basis otherwise. Provided however, the Commission may permit or approve rates on bases other than measured or message for shared service whenever the service is offered to patrons of hospitals, nursing homes, rest homes, licensed retirement centers, members of clubs or students living in quarters furnished by educational institutions, or persons temporarily subleasing a residential premise. The Commission shall issue rules to implement the service authorized by this section, considering the competitive nature of the offerings and, notwithstanding any other provision of law, the Commission shall determine the extent to which such services shall be regulated and, to the extent necessary to protect the public interest, regulate the terms, conditions, and rates charged for such services and the terms and conditions for interconnection to the local exchange network. The Commission shall require any person offering telephone service under this subsection by means of a Private Branch Exchange ('PBX') or key system to secure adequate local exchange trunks from the local exchange telephone company to assure a quality of service equal to the quality of service generally found acceptable by the Commission. Unless otherwise ordered by the Commission for good cause shown by the company, the right and obligation of the local exchange carrier to provide local service directly to any person located within its certificated service area shall continue to apply to premises where shared or resold telephone service is available, provided however, the Commission shall be authorized to establish the terms and conditions under which such services should be provided."

Sec. 2. G.S. 62-3(23)g. reads as rewritten:

"g. The term 'public utility' shall not include a hotel, ~~or~~ motel, time share or condominium complex operated primarily to serve transient occupants, which imposes charges to ~~guests-occupants~~ for local, ~~or~~ long-distance, or wide area telecommunication services telephone calls when such calls are completed through the use of ~~local access lines or long distance message telecommunications service (MTS)~~ of facilities provided by a public utility, and provided further that the local services received are rated in accordance with the provisions of G.S. 62-110(d) and the applicable charges for telephone calls are prominently displayed in each ~~guest room~~ area where occupant rooms are located."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of June, 1987.