

HOUSE BILL 63

Unofficial Copy
C5

2002 Regular Session
2r0590

(PRE-FILED)

By: **Delegate Stern**

Requested: October 3, 2001

Introduced and read first time: January 9, 2002

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Telecommunication Services - Basic Local Exchange Service Quality**

3 FOR the purpose of requiring the Public Service Commission to adopt certain
4 regulations regarding basic local exchange telecommunications services;
5 establishing a system of required customer credits for certain actions; requiring
6 the Commission to take certain credits into account when imposing fines in
7 certain cases; providing that, when practicable, municipalities may not be in
8 more than one telecommunications exchange in certain circumstances; defining
9 certain terms; stating legislative intent; and generally relating to basic local
10 exchange telecommunications services.

11 BY renumbering

12 Article - Public Utility Companies
13 Section 1-101(ii) through (pp), respectively
14 to be Section 1-101(kk) through (rr), respectively
15 Annotated Code of Maryland
16 (1998 Volume and 2001 Supplement)

17 BY adding to

18 Article - Public Utility Companies
19 Section 1-101(ii) and (jj); and 8-501 through 8-505, inclusive, to be under the
20 new subtitle "Subtitle 5. Basic Local Exchange Service Quality"
21 Annotated Code of Maryland
22 (1998 Volume and 2001 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That Section(s) 1-101(ii) through (pp), respectively, of Article - Public
25 Utility Companies of the Annotated Code of Maryland be renumbered to be Section(s)
26 1-101(kk) through (rr), respectively.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
28 read as follows:

1 **Article - Public Utility Companies**

2 1-101.

3 (II) "TELECOMMUNICATIONS CARRIER" MEANS A PERSON WHO OFFERS
4 TELECOMMUNICATIONS SERVICE DIRECTLY OR INDIRECTLY THROUGH THE
5 FACILITIES OF A LOCAL TELEPHONE EXCHANGE.

6 (JJ) "TELECOMMUNICATIONS SERVICE" MEANS THE TRANSMISSION OF VOICE
7 OR DATA COMMUNICATION THROUGH A SWITCHED LOCAL EXCHANGE NETWORK AS
8 A PUBLIC SERVICE.

9 **SUBTITLE 5. BASIC LOCAL EXCHANGE SERVICE QUALITY.**

10 8-501.

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (B) (1) "ALTERNATIVE TELEPHONE SERVICE" MEANS, EXCEPT WHERE
14 TECHNICALLY IMPRACTICABLE, A WIRELESS TELEPHONE CAPABLE OF MAKING
15 LOCAL CALLS.

16 (2) "ALTERNATIVE TELEPHONE SERVICE" INCLUDES CALL
17 FORWARDING, VOICE MAIL, AND PAGING SERVICES.

18 (C) (1) "BASIC LOCAL EXCHANGE SERVICE" MEANS RESIDENTIAL AND
19 BUSINESS TELEPHONE LINES USED FOR LOCAL EXCHANGE TELECOMMUNICATIONS
20 SERVICE.

21 (2) "BASIC LOCAL EXCHANGE SERVICE" DOES NOT INCLUDE:

22 (I) A SERVICE THAT EMPLOYS ADVANCED TELECOMMUNICATIONS
23 CAPABILITY AS DEFINED IN § 706(C)(1) OF THE FEDERAL TELECOMMUNICATIONS ACT
24 OF 1996;

25 (II) VERTICAL SERVICE; OR

26 (III) AN OFFICIAL COMPANY LINE.

27 (D) "CARRIER" MEANS A TELECOMMUNICATIONS CARRIER.

28 (E) "DIAL TONE" MEANS A TONE EMPLOYED IN A DIAL OR TOUCH-TONE
29 TELEPHONE SYSTEM THAT INDICATES TO THE CALLING PARTY THAT THE
30 TELECOMMUNICATIONS EQUIPMENT IS READY TO RECEIVE DIAL OR TONE PULSES.

31 (F) "EXCHANGE" MEANS A GEOGRAPHIC AREA FOR THE ADMINISTRATION OF
32 TELECOMMUNICATIONS SERVICES ESTABLISHED BY THE TARIFF OF A
33 TELECOMMUNICATIONS CARRIER PROVIDING LOCAL EXCHANGE
34 TELECOMMUNICATIONS SERVICES, AND CONSISTING OF ONE OR MORE CONTIGUOUS

1 CENTRAL OFFICES, TOGETHER WITH THE ASSOCIATED FACILITIES USED IN
2 PROVIDING LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE.

3 (G) "INTERCONNECTION AGREEMENT" MEANS AN AGREEMENT AMONG
4 TELECOMMUNICATIONS CARRIERS PROVIDING FOR THE LINKING TOGETHER OF
5 INTEROPERABLE COMMUNICATIONS UNITS, INCLUDING: SYSTEMS, NETWORKS,
6 LINKS, NODES, EQUIPMENT, CIRCUITS, AND DEVICES.

7 (H) "LINK UP" MEANS THE LINK UP ASSISTANCE PROGRAM AS DEFINED AND
8 ESTABLISHED AT 47 CFR SECTIONS 54.411 - 54.415.

9 (I) "LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE" MEANS
10 TELECOMMUNICATIONS SERVICE:

11 (1) PROVIDED BETWEEN POINTS WITHIN AN EXCHANGE; OR

12 (2) ORIGINATING IN AN EXCHANGE.

13 (J) (1) "LOCAL SERVICE" MEANS BASIC LOCAL EXCHANGE SERVICE.

14 (2) "LOCAL SERVICE" INCLUDES:

15 (I) SERVICES THAT EMPLOY ADVANCED TELECOMMUNICATIONS
16 CAPABILITY AS DEFINED IN § 706(C)(1) OF THE FEDERAL TELECOMMUNICATIONS ACT
17 OF 1996;

18 (II) VERTICAL SERVICES; AND

19 (III) AN OFFICIAL COMPANY LINE.

20 (K) "NETWORK" MEANS AN INTERCONNECTION OF THREE OR MORE
21 COMMUNICATING ENTITIES.

22 (L) "NETWORK ELEMENT" MEANS A PIECE OF TELECOMMUNICATIONS
23 EQUIPMENT THAT PROVIDES SUPPORT OR SERVICE TO THE USER.

24 (M) "SERVICE DISRUPTION" INCLUDES:

25 (1) THE INABILITY OF A CUSTOMER TO RAISE A DIAL TONE; OR

26 (2) THE EXCESSIVE IMPAIRMENT OF LOCAL EXCHANGE
27 TELECOMMUNICATIONS SERVICE.

28 (N) "TELECOMMUNICATIONS CARRIER" MEANS A PERSON WHO OFFERS
29 TELECOMMUNICATIONS SERVICES DIRECTLY OR INDIRECTLY THROUGH THE
30 FACILITIES OF A BASIC LOCAL EXCHANGE, INCLUDING:

31 (1) A DIGITAL SUBSCRIBER LINE;

32 (2) LONG DISTANCE TELEPHONE SERVICE; AND

1 (3) LOCAL BASIC TELEPHONE EXCHANGE SERVICE.

2 8-502.

3 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT EVERY
4 TELECOMMUNICATIONS CARRIER SHALL MEET MINIMUM SERVICE QUALITY
5 STANDARDS IN PROVIDING BASIC LOCAL EXCHANGE SERVICE ON A
6 NONDISCRIMINATORY BASIS TO ALL CLASSES OF CUSTOMERS.

7 8-503.

8 (A) (1) THE COMMISSION SHALL ADOPT SERVICE QUALITY REGULATIONS
9 FOR BASIC LOCAL EXCHANGE SERVICE.

10 (2) THE REGULATIONS MAY INCLUDE FINES, PENALTIES, CUSTOMER
11 CREDITS, AND OTHER ENFORCEMENT MECHANISMS.

12 (3) WHEN MAKING REGULATIONS CONCERNING PENALTIES, THE
13 COMMISSION SHALL CONSIDER, AT A MINIMUM, PATTERNS AND PRACTICES OF
14 SERVICE QUALITY DEFICIENCIES OR FAILURES AND THE FREQUENCY, DURATION,
15 AND RECURRENCE OF FAILURES.

16 (B) (1) AT A MINIMUM, THE REGULATIONS SHALL REQUIRE THE CARRIER
17 TO:

18 (I) INSTALL BASIC LOCAL EXCHANGE SERVICE WITHIN 5
19 BUSINESS DAYS AFTER RECEIVING AN ORDER FROM A CUSTOMER, UNLESS THE
20 CUSTOMER REQUESTS A LATER INSTALLATION DATE;

21 (II) INSTALL BASIC LOCAL EXCHANGE SERVICE BY THE DATE THAT
22 A CUSTOMER REQUESTS IF A CUSTOMER REQUESTS AN INSTALLATION DATE THAT IS
23 LATER THAN 5 BUSINESS DAYS AFTER PLACING THE ORDER FOR BASIC LOCAL
24 EXCHANGE SERVICE;

25 (III) INFORM THE CUSTOMER OF THE CARRIER'S DUTY TO INSTALL
26 BASIC LOCAL EXCHANGE SERVICE WITHIN 5 BUSINESS DAYS AFTER RECEIVING A
27 CUSTOMER'S ORDER FOR SERVICE;

28 (IV) RESTORE BASIC LOCAL EXCHANGE SERVICE WITHIN 24 HOURS
29 AFTER RECEIVING NOTICE THAT A CUSTOMER IS OUT OF SERVICE, INCLUDING A
30 SERVICE DISRUPTION THAT OCCURS WHEN A CUSTOMER SWITCHES EXISTING BASIC
31 LOCAL EXCHANGE SERVICE FROM ONE CARRIER TO ANOTHER;

32 (V) KEEP ALL REPAIR AND INSTALLATION APPOINTMENTS FOR
33 BASIC LOCAL EXCHANGE SERVICE WHEN A CUSTOMER PREMISES VISIT REQUIRES A
34 CUSTOMER TO BE PRESENT; AND

35 (VI) INFORM THE CUSTOMER WHEN A REPAIR OR INSTALLATION
36 APPOINTMENT REQUIRES THE CUSTOMER TO BE PRESENT.

1 (2) THE PROVISIONS OF PARAGRAPH (1)(I) THROUGH (III) OF THIS
2 SUBSECTION DO NOT APPLY TO THE MIGRATION OF A CUSTOMER BETWEEN
3 CARRIERS IF THE CUSTOMER MAINTAINS A DIAL TONE.

4 (3) THE REGULATIONS SHALL REQUIRE A CARRIER OFFERING BASIC
5 LOCAL EXCHANGE SERVICE USING THE NETWORK OR NETWORK ELEMENTS OF
6 ANOTHER CARRIER TO INSTALL A NEW LINE FOR BASIC LOCAL EXCHANGE SERVICE
7 WITHIN 3 BUSINESS DAYS AFTER THE CARRIER WHOSE NETWORK OR NETWORK
8 ELEMENTS ARE BEING USED HAS COMPLETED PROVIDING THE LINE.

9 (4) THE REGULATIONS SHALL INCLUDE PROVISIONS FOR A CUSTOMER
10 TO BE CREDITED BY THE CARRIER FOR A VIOLATION OF THE STANDARDS SET FORTH
11 IN PARAGRAPH (1) OF THIS SUBSECTION. THE CREDIT SHALL BE APPLIED ON THE
12 NEXT MONTHLY BILLING STATEMENT ISSUED TO THE CUSTOMER AFTER THE
13 VIOLATION.

14 (5) THE PERFORMANCE LEVELS SET FORTH IN PARAGRAPH (1) OF THIS
15 SUBSECTION ARE SOLELY FOR THE PURPOSE OF ASSESSING CONSUMER CREDITS
16 AND MAY NOT BE USED AS PERFORMANCE LEVELS FOR THE PURPOSE OF ASSESSING
17 PENALTIES UNDER ANY OTHER PROVISION OF THIS ARTICLE.

18 (C) THE COMMISSION SHALL ADOPT REGULATIONS FOR THE APPLICATION OF
19 CONSUMER CREDITS FOR A VIOLATION OF SUBSECTION (B)(1) OF THIS SECTION.

20 (1) IF A CARRIER FAILS TO REPAIR OR OTHERWISE CORRECT A SERVICE
21 DISRUPTION FOR BASIC LOCAL EXCHANGE SERVICE WITHIN 24 HOURS, THE CARRIER
22 SHALL PROVIDE A CONSUMER CREDIT IN ACCORDANCE WITH THE FOLLOWING
23 CRITERIA:

24 (I) IF THE SERVICE DISRUPTION IS FOR 48 HOURS OR LESS, THE
25 CREDIT SHALL BE THE PRO RATA SHARE OF THE MONTHLY RECURRING CHARGES
26 FOR ALL LOCAL SERVICES DISRUPTED;

27 (II) IF THE SERVICE DISRUPTION IS FOR MORE THAN 48 HOURS,
28 BUT NOT MORE THAN 72 HOURS, THE CREDIT SHALL BE AT LEAST ONE-THIRD OF 1
29 MONTH'S RECURRING CHARGES FOR ALL LOCAL SERVICES DISRUPTED;

30 (III) IF THE SERVICE DISRUPTION IS FOR MORE THAN 72 HOURS,
31 BUT NOT MORE THAN 96 HOURS, THE CREDIT SHALL BE AT LEAST TWO-THIRDS OF 1
32 MONTH'S RECURRING CHARGES FOR ALL LOCAL SERVICES DISRUPTED;

33 (IV) IF THE SERVICE DISRUPTION IS FOR MORE THAN 96 HOURS,
34 BUT NOT MORE THAN 120 HOURS, THE CREDIT SHALL BE 1 MONTH'S RECURRING
35 CHARGES; AND

36 (V) FOR EACH DAY OR PORTION OF A DAY THAT THE SERVICE
37 DISRUPTION CONTINUES BEYOND THE INITIAL 120-HOUR PERIOD, THE CARRIER
38 SHALL ALSO PROVIDE EITHER ALTERNATIVE TELEPHONE SERVICE OR AN
39 ADDITIONAL CREDIT OF \$20 PER DAY, AT THE CUSTOMER'S OPTION.

1 (2) IF A CARRIER FAILS TO INSTALL BASIC LOCAL EXCHANGE SERVICE
2 AS REQUIRED UNDER SUBSECTION (B)(1) AND (2) OF THIS SECTION, THE CARRIER
3 SHALL PROVIDE A CUSTOMER CREDIT IN ACCORDANCE WITH THE FOLLOWING:

4 (I) IF THE CARRIER INSTALLS BASIC LOCAL EXCHANGE SERVICE
5 MORE THAN 5 BUSINESS DAYS AFTER THE CUSTOMER PLACES THE INSTALLATION
6 ORDER BUT BEFORE THE END OF 10 BUSINESS DAYS AFTER THE CUSTOMER PLACES
7 THE ORDER, OR BEFORE THE END OF 5 BUSINESS DAYS AFTER THE CUSTOMER'S
8 REQUESTED INSTALLATION DATE IF THE REQUESTED DATE WAS MORE THAN 5
9 BUSINESS DAYS AFTER THE DATE OF THE ORDER, THE CARRIER SHALL WAIVE
10 ONE-HALF OF ANY INSTALLATION CHARGES, OR IN THE ABSENCE OF AN
11 INSTALLATION CHARGE OR IF INSTALLATION IS UNDER LINK UP, THE CARRIER
12 SHALL PROVIDE A CREDIT OF \$25;

13 (II) IF THE CARRIER FAILS TO INSTALL BASIC LOCAL EXCHANGE
14 SERVICE WITHIN 10 BUSINESS DAYS AFTER THE SERVICE APPLICATION IS PLACED,
15 OR FAILS TO INSTALL SERVICE WITHIN 5 BUSINESS DAYS AFTER THE CUSTOMER'S
16 REQUESTED INSTALLATION DATE, IF THE REQUESTED DATE WAS MORE THAN 5
17 BUSINESS DAYS AFTER THE ORDER, THE CARRIER SHALL WAIVE THE ENTIRE
18 INSTALLATION CHARGE, OR IN THE ABSENCE OF AN INSTALLATION CHARGE OR IF
19 INSTALLATION IS PROVIDED UNDER LINK UP, THE CARRIER SHALL PROVIDE A
20 CREDIT OF \$50; AND

21 (III) FOR EACH DAY THAT THE FAILURE TO INSTALL SERVICE
22 CONTINUES BEYOND THE INITIAL 10 BUSINESS DAYS, OR BEYOND THE 5 BUSINESS
23 DAYS AFTER THE CUSTOMER'S REQUESTED INSTALLATION DATE, IF THE
24 REQUESTED DATE WAS MORE THAN 5 BUSINESS DAYS AFTER THE DATE OF THE
25 ORDER, THE CARRIER SHALL ALSO PROVIDE EITHER ALTERNATIVE TELEPHONE
26 SERVICE OR AN ADDITIONAL CREDIT OF \$20 PER DAY, AT THE CUSTOMER'S OPTION,
27 UNTIL SERVICE IS INSTALLED.

28 (3) (I) IF A CARRIER FAILS TO KEEP A SCHEDULED REPAIR OR
29 INSTALLATION APPOINTMENT WHEN A VISIT TO THE CUSTOMER'S PREMISES
30 REQUIRES A CUSTOMER TO BE PRESENT, THE CARRIER SHALL CREDIT THE
31 CUSTOMER \$50 FOR EACH MISSED APPOINTMENT.

32 (II) A CREDIT REQUIRED BY THIS PARAGRAPH DOES NOT APPLY IF
33 THE CARRIER PROVIDES THE CUSTOMER NOTICE OF ITS INABILITY TO KEEP THE
34 APPOINTMENT AT LEAST 24 HOURS BEFORE THE APPOINTMENT.

35 (D) (1) IF ALTERNATIVE TELEPHONE SERVICE IS APPROPRIATE, THE
36 CUSTOMER MAY SELECT AN ALTERNATIVE TELEPHONE SERVICE OFFERED BY THE
37 CARRIER.

38 (2) THE CARRIER SHALL PROVIDE THE ALTERNATIVE TELEPHONE
39 SERVICE AT NO COST TO THE CUSTOMER FOR THE PERIOD DURING WHICH THE
40 ALTERNATIVE SERVICE IS APPROPRIATE.

41 (E) CREDITS REQUIRED BY THIS SECTION DO NOT APPLY IF THE VIOLATION:

1 (1) OCCURS AS A RESULT OF A NEGLIGENT OR WILLFUL ACT OF THE
2 CUSTOMER;

3 (2) OCCURS AS A RESULT OF A MALFUNCTION OF CUSTOMER-OWNED
4 TELEPHONE EQUIPMENT OR INSIDE WIRING;

5 (3) OCCURS AS A RESULT OF, OR IS EXTENDED BY, AN EMERGENCY
6 SITUATION AS DEFINED IN COMMISSION REGULATIONS;

7 (4) IS EXTENDED BY THE CARRIER'S INABILITY TO GAIN ACCESS TO THE
8 CUSTOMER'S PREMISES BECAUSE THE CUSTOMER MISSES AN APPOINTMENT, IF THE
9 VIOLATION IS NOT FURTHER EXTENDED BY THE CARRIER;

10 (5) OCCURS AS A RESULT OF A CUSTOMER REQUEST TO CHANGE THE
11 SCHEDULED APPOINTMENT, IF THE VIOLATION IS NOT FURTHER EXTENDED BY THE
12 CARRIER;

13 (6) OCCURS AS A RESULT OF A CARRIER'S RIGHT TO REFUSE SERVICE TO
14 A CUSTOMER AS PROVIDED IN THE COMMISSION'S REGULATIONS; OR

15 (7) OCCURS AS A RESULT OF:

16 (I) A LACK OF FACILITIES IF A CUSTOMER REQUESTS SERVICE AT
17 A GEOGRAPHICALLY REMOTE LOCATION;

18 (II) A CUSTOMER REQUESTS SERVICE IN AN AREA WHERE THE
19 CARRIER IS NOT CURRENTLY OFFERING SERVICE; OR

20 (III) THE CARRIER NOT HAVING SUFFICIENT FACILITIES TO MEET
21 THE CUSTOMER'S REQUEST FOR SERVICE, SUBJECT TO THE CARRIER'S OBLIGATION
22 FOR REASONABLE FACILITIES PLANNING.

23 (F) THE PROVISIONS OF THIS SECTION ARE CUMULATIVE AND DO NOT
24 AFFECT ANY OTHER CIVIL OR ADMINISTRATIVE REMEDY AVAILABLE TO A
25 CUSTOMER OR CLASS OF CUSTOMERS.

26 (G) (1) THE COMMISSION SHALL ADOPT REGULATIONS TO REQUIRE EACH
27 CARRIER TO PROVIDE TO THE COMMISSION, ON A QUARTERLY BASIS AND IN A FORM
28 SUITABLE FOR POSTING ON THE COMMISSION'S WEBSITE ON THE INTERNET, A
29 PUBLIC REPORT THAT INCLUDES PERFORMANCE DATA FOR BASIC LOCAL EXCHANGE
30 SERVICE QUALITY OF SERVICE.

31 (2) THE PERFORMANCE DATA SHALL BE SEPARATED FOR EACH
32 GEOGRAPHIC AREA AND EACH CUSTOMER CLASS OF THE STATE FOR WHICH THE
33 CARRIER INTERNALLY MONITORED PERFORMANCE DATA AS OF APRIL 1, 2002.

34 (3) AT A MINIMUM, THE REPORT SHALL INCLUDE PERFORMANCE DATA
35 ON BASIC LOCAL EXCHANGE SERVICE INSTALLATIONS, LINES OUT OF SERVICE FOR
36 MORE THAN 24 HOURS, CARRIER RESPONSE TO CUSTOMER CALLS, TROUBLE
37 REPORTS, AND MISSED REPAIR AND INSTALLATION COMMITMENTS.

1 8-504.

2 TO THE EXTENT PRACTICABLE, A MUNICIPAL CORPORATION MAY NOT BE
3 LOCATED IN MORE THAN ONE EXCHANGE UNLESS THE MUNICIPALITY IS LOCATED
4 IN MORE THAN ONE EXCHANGE THROUGH ANNEXATION THAT OCCURS AFTER THE
5 ESTABLISHMENT OF THE EXCHANGE BOUNDARY.

6 8-505.

7 WHEN IMPOSING FINES, THE COMMISSION SHALL TAKE INTO ACCOUNT
8 COMPENSATION OR CREDITS PAID BY THE CARRIER TO ITS CUSTOMERS UNDER THIS
9 SUBTITLE IN COMPENSATION FOR A VIOLATION OF THIS SUBTITLE.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2002.