

CHAPTER 580

(Senate Bill 864)

AN ACT concerning

Voice Over Internet Protocol Service ~~and Internet Protocol Enabled Service~~

FOR the purpose of providing that the Public Service Commission does not have jurisdiction over certain voice over Internet protocol services ~~and Internet protocol-enabled services~~; requiring a certain company that moves a customer from a certain service to a voice over Internet protocol service to provide the ~~consumer~~ customer with a certain notification; requiring the Department of Business and Economic Development and the Commission, with input from certain agencies, to report to the General Assembly by a certain date on the status of a certain deployment; requiring the Commission, with input from certain agencies, to track certain consumer complaints; authorizing the Commission, under certain circumstances, to report certain findings and recommendations to the General Assembly; providing for the construction of this Act; defining ~~certain terms~~ a certain term; and generally relating to voice over Internet protocol service ~~and Internet protocol-enabled service~~.

BY adding to

Article – Public Utility Companies

Section 8–601 and 8–602 to be under the new subtitle “Subtitle 6. Voice over Internet Protocol Service ~~and Internet Protocol Enabled Service~~”

Annotated Code of Maryland

(1998 Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utility Companies

SUBTITLE 6. VOICE OVER INTERNET PROTOCOL SERVICE ~~AND INTERNET PROTOCOL-ENABLED SERVICE.~~

8–601.

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

~~(b) “INTERNET PROTOCOL ENABLED SERVICE” OR “IP ENABLED SERVICE” MEANS ANY SERVICE, CAPABILITY, FUNCTIONALITY, OR APPLICATION PROVIDED USING INTERNET PROTOCOL OR ANY SUCCESSOR PROTOCOL THAT ENABLES AN END USER TO SEND OR RECEIVE A COMMUNICATION IN IP FORMAT OR ANY SUCCESSOR FORMAT, REGARDLESS OF WHETHER THE COMMUNICATION IS VOICE, DATA, OR VIDEO. IN THIS SUBTITLE:~~

~~(c)~~ (1) ~~“VOICE VOICE OVER INTERNET PROTOCOL SERVICE” OR “VOIP SERVICE” MEANS ANY SERVICE THAT:~~

(I) ~~ENABLES REAL-TIME TWO-WAY VOICE COMMUNICATIONS THAT ORIGINATE FROM OR TERMINATE USING TO THE SUBSCRIBER END USER’S LOCATION REQUIRING INTERNET PROTOCOL OR A ANY SUCCESSOR FORMAT PROTOCOL TO INTERNET PROTOCOL; AND~~

(II) ~~USES REQUIRES A BROADBAND CONNECTION FROM THE USER’S LOCATION; AND~~

(2) ~~“VOICE VOICE OVER INTERNET PROTOCOL SERVICE” OR “VOIP SERVICE” INCLUDES ANY SUCH SERVICE THAT PERMITS USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED TELEPHONE NETWORK.~~

8-602.

(A) THE COMMISSION DOES NOT HAVE JURISDICTION OVER THE REGULATION OF VOIP SERVICE ~~OR IP-ENABLED SERVICE~~, INCLUDING THE IMPOSITION OF REGULATORY FEES, CERTIFICATION REQUIREMENTS, AND THE FILING OR APPROVAL OF TARIFFS.

(B) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO:

(1) REQUIRE OR PROHIBIT THE ASSESSMENT OF 9-1-1 FEES IN ACCORDANCE WITH § 1-310 OF THE PUBLIC SAFETY ARTICLE ON VOIP ~~OR IP-ENABLED SERVICE~~;

(2) REQUIRE OR PROHIBIT THE ASSESSMENT OF FEES FOR TELECOMMUNICATIONS RELAY SERVICE UNDER TITLE 3, SUBTITLE 8 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

~~(2)~~ (3) REQUIRE OR PROHIBIT THE PAYMENT OF ANY SWITCHED NETWORK ACCESS RATES OR OTHER INTERCARRIER COMPENSATION RATES THAT MAY BE DETERMINED TO APPLY; ~~OR~~

~~(3)~~ (4) RELIEVE A COMPANY THAT IS OTHERWISE SUBJECT TO § 8-201 OF THIS TITLE OF ITS OBLIGATION TO PROVIDE TELEPHONE LIFELINE SERVICE OVER LOCAL EXCHANGE ACCESS LINES THAT ARE SUBJECT TO THE COMMISSION'S JURISDICTION;

(5) EXEMPT VOIP SERVICE FROM GENERALLY APPLICABLE STATE AND FEDERAL LAWS RELATING TO PUBLIC SAFETY, CONSUMER PROTECTION, AND UNFAIR AND DECEPTIVE TRADE PRACTICES, OR TO EXEMPT VOIP SERVICE FROM THE ~~PURVIEW~~ AUTHORITY OF THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL; OR

(6) REMOVE THE COMMISSION'S JURISDICTION OVER CIRCUIT SWITCHED LOCAL EXCHANGE ACCESS SERVICE.

(C) A COMPANY THAT MOVES A CUSTOMER FROM A COMMISSION-APPROVED TARIFF SERVICE TO VOIP SERVICE SHALL NOTIFY THE CUSTOMER THAT THE COMMISSION DOES NOT HAVE JURISDICTION OVER THE REGULATION OF VOIP SERVICE AND THAT COMPLAINTS ABOUT VOIP SERVICE IS UNDER THE PURVIEW OF MAY BE FILED WITH THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act authorizes a company to move a customer from a service the customer ordered under a tariff approved by the Public Service Commission to another service that may be tariffed or nontariffed unless:

(1) the customer consents; or

(2) the service the customer ordered under a Commission-approved tariff is discontinued with the approval of the Commission.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010, the Department of Business and Economic Development and the Public Service

Commission, with input from the Office of the Attorney General and other appropriate agencies as necessary, shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the status of the deployment of Internet Protocol-enabled services, including VoIP services, in Maryland and the status of any federal legislation or regulatory proceedings before the Federal Communications Commission relating to Internet Protocol-enabled services.

SECTION 4. AND BE IT FURTHER ENACTED, That, the Public Service Commission, with input from the Office of the Attorney General and the Office of People's Counsel, shall track the number of consumer complaints received by those State agencies regarding the provision of VoIP services in Maryland, including consumer complaints related to service outages, terminations without consumer consent, poor service, or billing disputes. If, at any time, the Commission determines that additional consumer protections may be necessary for the public interest based on consumer complaints or that a substantial number of consumers lack alternatives for voice service, including regulated voice services offered under Commission-approved tariffs or VoIP service offered by other providers, the Commission on its own initiative may report its findings and recommendations to the General Assembly, in accordance with § 2-1246 of the State Government Article.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.