

House Bill 998 (AS PASSED HOUSE AND SENATE)

By: Representatives Leverett of the 123rd, Camp of the 135th, Powell of the 33rd, Jasperse of the 11th, Williams of the 168th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated,
2 relating to telecommunications and competition development, so as to authorize certain
3 Tier 2 local exchange companies to elect to become subject to rate of return regulation; to
4 extend the period of time certain distributions can be made from the Universal Access Fund;
5 to require certain information from local exchange companies seeking reimbursement from
6 the fund; to require the total amount of distributions not to exceed \$50 million in the
7 aggregate during any single fund year; to provide annual monetary limitations on certain
8 distributions; to require annual reports on the Universal Access Fund; to provide for contents
9 of such report; to provide for a definition; to provide for related matters; to repeal conflicting
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 4 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to
14 telecommunications and competition development, is amended by revising Code
15 Section 46-5-165, relating to alternative regulation of rates, terms, and conditions, as follows:

16 "46-5-165.

17 (a) Any Tier 1 local exchange company may elect to have its rates, terms, and conditions
18 for its services determined pursuant to the alternative regulation described in this article,
19 in lieu of other forms of regulation, including, but not limited to, rate of return or rate base
20 monitoring or regulation, upon the filing of notice with the commission and committing to
21 provide basic local exchange services upon reasonable request and to invest \$500 million
22 per year for five years to improve and strengthen telecommunications services in ~~Georgia~~
23 this state; provided, however, that, after the expiration of three years of such investments,
24 the commission shall determine, after notice and opportunity for a Tier 1 local exchange
25 company or other interested parties to be heard, whether such investment commitment
26 should be continued for the remaining two years or whether such commitment should be
27 reduced.

28 (b) Any Tier 2 local exchange company may elect to have the rates, terms, and conditions
29 for its services determined pursuant to the alternative regulation described in this article
30 upon the filing of notice with the commission and committing to provide basic local
31 exchange services upon reasonable request.

32 (c) The alternative regulation under this article shall become effective on the date specified
33 by the electing company but in no event sooner than 30 days after such notice is filed with
34 the commission.

35 (d) On the date a telecommunications company elects the alternative regulation described
36 in this article, all existing rates, terms, and conditions for the services provided by the
37 electing company contained in the then existing tariffs and contracts ~~are~~ shall be deemed
38 just and reasonable.

39 (e)(1) As used in this subsection, the term 'eligible Tier 2 local exchange company'
40 means a Tier 2 local exchange company that:

41 (A) Is not affiliated, directly or indirectly, with any provider serving more than 50,000
42 access lines nation wide; and

43 (B) Is responsible for providing basic local exchange services upon reasonable request.
44 (2) Any eligible Tier 2 local exchange company that is an electing company may elect
45 to become subject to rate of return regulation by certification to the commission of such
46 election no later than August 1, 2026. An eligible Tier 2 local exchange company
47 making such election shall be prohibited from making a subsequent election to have the
48 rates, terms, and conditions for its services determined pursuant to the alternative
49 regulation described in subsection (b) of this Code section prior to August 1, 2031.
50 (3) Nothing in this subsection shall be construed to limit any election to become subject
51 to rate of return regulation made prior to July 1, 2026."

52 **SECTION 2.**

53 Said article is further amended in Code Section 46-5-166, relating to rates for switched
54 access, by revising subsection (c) as follows:

55 "(c) Beginning January 1, 2011, and ending December 31, 2015, each Tier 2 local
56 exchange company shall adjust in equal annual increments its intrastate switched access
57 charges to parity with its similar interstate switched access rates. The commission shall
58 have authority to govern the transition of Tier 2 local exchange company switched access
59 rates to their corresponding interstate levels and the commission shall allow adjustment of
60 basic local exchange services or universal access funds, as necessary to recover those
61 revenues, based on calendar year 2008, lost through the concurrent reduction of the
62 intrastate switched access rates. In the event that the rates for switched access cannot be
63 negotiated in good faith between the parties, the commission shall determine the reasonable
64 rates for switched access in accordance with the procedures provided in subsection (b) of
65 this Code section. ~~Any Tier 2 local exchange company that is an electing company may~~
66 ~~elect to become subject to rate of return regulation by certification to the commission of~~
67 ~~this election no later than December 31, 2010. A Tier 2 local exchange company making~~
68 ~~this election is prohibited from making a subsequent election to have the rates, terms, and~~

69 ~~conditions for its services determined pursuant to the alternative regulation described in~~
 70 ~~subsection (b) of Code Section 46-5-165 prior to January 1, 2016."~~

71 **SECTION 3.**

72 Said article is further amended in Code Section 46-5-167, relating to Universal Access Fund,
 73 by revising subparagraph (d)(2)(B) and subsection (e) and by adding new subsections to read
 74 as follows:

75 "(B) Except for those distributions to Tier 2 local exchange companies that have
 76 reduced intrastate switched access charges pursuant to subsection (c) of Code
 77 Section 46-5-166, distributions to a Tier 2 local exchange carrier subject to rate of
 78 return regulation shall also be reduced by the amount per access line, which if added
 79 to the carrier's basic local exchange service rate, in accordance with a schedule
 80 established by the commission, results in an amount that would be equal to 110 percent
 81 of the July 1, 2009, residential state-wide weighted average rate for basic local
 82 exchange services imputed across all access lines and adjusted annually for inflation
 83 measured by the change in GDP-PI. The commission shall determine any such
 84 distributions upon application, demonstration, and good cause shown that the
 85 reasonable actual costs to provide basic local exchange services exceed the maximum
 86 fixed price permitted for such basic local exchange services; ~~any distributions pursuant~~
 87 ~~to this subparagraph shall be limited to a period of no more than 20 years.~~

88 (e) The commission shall require any local exchange company seeking reimbursement
 89 from the fund pursuant to subparagraph (d)(2)(B) of this Code section to file the
 90 information reasonably necessary to determine the actual and reasonable costs of providing
 91 basic local exchange services. Such information shall include, but not be limited to, the
 92 most recent unredacted audited financial reports with any accompanying notes for each
 93 company and its parent company. No distribution pursuant to this subsection shall be made
 94 for any expense incurred after December 31, 2040."

95 “(h)(1) Beginning with distributions made for approved costs incurred on or after July
96 1, 2026, the total amount of distributions from the fund pursuant to this Code section
97 shall not exceed \$50 million in the aggregate during any single fund year; provided,
98 however, that, if the total amount of distributions authorized by the commission exceeds
99 the annual monetary limitation, the commission shall reduce distributions on a
100 proportional, pro rata basis so that the total distributions do not exceed such monetary
101 limitation.

102 (2) For purposes of this subsection, the annual monetary limitation on distributions shall
103 apply only to distributions attributable to costs incurred during fund years beginning on
104 or after July 1, 2026, regardless of the date such distributions are disbursed.

105 (3) The commission shall continue to administer, review, approve, and disburse
106 distributions as reimbursements for eligible costs incurred prior to July 1, 2026, in
107 accordance with this Code section, without regard to the limitation established in
108 paragraph (1) of this subsection.

109 (4) Nothing in this subsection shall be construed to impair or delay the payment of any
110 distributions lawfully approved for costs incurred prior to July 1, 2026.

111 (i) The commission shall submit a written report on December 31, 2026, and every other
112 year thereafter, concerning the Universal Access Fund to the Governor, the Lieutenant
113 Governor, and the Speaker of the House of Representatives. Such report shall be submitted
114 no later than December 31 of every even-numbered year and shall include the following
115 information for the most recently completed Universal Access Fund year:

116 (1) The total amount of contributions collected for the Universal Access Fund, including
117 the percentage rate charged to consumers for such contributions and the remaining
118 balance of the fund as of the end of the reporting period;

119 (2) The total amount of fund requests and disbursements made from the Universal
120 Access Fund and notable findings from annual audits;

- 121 (3) The total number of access lines providing basic local exchange service in the State
122 of Georgia;
- 123 (4) The total number of access lines receiving support from the Universal Access Fund;
- 124 (5) The number of eligible local exchange companies receiving distributions from the
125 Universal Access Fund; and
- 126 (6) Any other information determined by the commission to be material to describing the
127 financial condition and operation of the Universal Access Fund, so long as such
128 information does not disclose any trade secret or proprietary information of any specific
129 provider."

130

SECTION 4.

131

All laws and parts of laws in conflict with this Act are repealed.