

MINA BENTE MUEBE NA LIHESLATURAN GUAHAN
TWENTY- NINTH GUAM LEGISLATURE
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Bill No. 391(45)

Introduced by:

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D. L. G. Shimizu

AN ACT TO PROVIDE A MORE LEVEL PLAYING FIELD
FOR THE TELECOMMUNICATIONS INDUSTRY ON
GUAM, CREATING COMPETITION WITHIN THE
INDUSTRY FOR THE BENEFIT AND
COMMONWEALTH OF ISLAND CONSUMERS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Finding.** *I Liheslaturan Guåhan* hereby finds and declares that
3 it is in the public interest of Guam to:

4 a. provide a framework for an orderly transition from the traditional regulation
5 of return on invested capital to a fully competitive communications

1 marketplace in which all telecommunications, video, and broadband
2 providers compete on fair terms;

3 b. preserve and enhance universal telecommunications service at affordable
4 rates;

5 c. ensure that all competing telecommunication, video, and broadband
6 providers are afforded the opportunity to be regulated in a similar manner;

7 d. promote network interconnectivity and diversity in the supply of
8 telecommunications, video, and broadband services and innovative products
9 and services throughout Guam.

10 With respect to broadband services *I Liheslaturan Guåhan* additionally finds and
11 declares:

12 a. cable modem services and digital subscriber line services are subject to
13 disparate regulatory treatment by the Federal Government and by State and
14 local governments;

15 b. competing and functionally equivalent products and services should be
16 treated in the same manner, regardless of who provides such products or
17 services;

18 c. a deregulatory environment should apply to providers of high-speed Internet
19 access services and broadband services, regardless of the platform used to
20 provide such services;

21 d. government regulation should not favor or advantage one class of
22 competitors among competitors offering similar products or services;

- 1 e. the deployment of digital subscriber line service, in particular, has been
- 2 restrained by regulatory requirements that are inappropriate for a
- 3 competitive service offered by various providers;
- 4 f. inappropriate regulation imposes needless costs and results in higher
- 5 consumer costs;
- 6 g. lower consumer costs will accelerate demand for high-speed Internet access
- 7 services;

8 In implementing this subchapter, the Commission shall consider Guam's policy
9 goals to be to:

- 10 a. ensure the availability of the widest possible range of competitive choices in
- 11 the provision of telecommunications, video, and broadband services and
- 12 facilities;
- 13 b. foster competition and rely on market forces where competition exists to
- 14 determine the price, terms, and availability of service, in a similar manner for
- 15 all telecommunications, video, and broadband providers;
- 16 c. ensure the universal availability of basic local telecommunications services at
- 17 reasonable rates;
- 18 d. encourage the continued development and deployment of advanced and
- 19 reliable capabilities and services in communications networks by allowing
- 20 new services to be regulated minimally and in a nondiscriminatory manner;
- 21 e. ensure interconnection and interoperability, based on uniform technical
- 22 standards, among telecommunications carriers;

- 1 f. eliminate unnecessary administrative procedures that impose regulatory
- 2 barriers to competition and ensure that competitive entry is fostered on an
- 3 economically rational basis;
- 4 g. ensure consumer protection and protection against anticompetitive conduct;
- 5 h. regulate a provider of services only to the extent the provider has market
- 6 power to control the price of services to customers;
- 7 i. encourage cost-based pricing of telecommunications, video, and broadband
- 8 services so that consumers pay a fair price for services they use; and
- 9 j. develop appropriate quality of service standards for local exchange
- 10 companies so as to place Guam among the leaders in the deployment of an
- 11 advanced communications infrastructure.

12 **Section 2. Election**

13 Any telecommunications company, including an incumbent telephone exchange
14 carrier, may elect to be subject to incentive regulation by notifying the Commission
15 in writing of its election.

16 The notice must include a statement that the company agrees to limit for two years,
17 any increase in a rate the company charges for basic services as defined in section
18 12.303; and except as provided in Subsection (d), an election under this chapter shall
19 be permanent.

20 The commission may allow an electing company to withdraw the company's
21 election under this chapter:

- 22 a. on application by the company; and
- 23 b. only for good cause.

1 In this section, "good cause" includes only matters beyond the control of the
2 company.

3 **Section 3. Services Included**

4 The following services are basic network services:

- 5 1. flat rate residential local exchange telephone service, also known as R-1
6 service;
- 7 2. residential tone dialing service;
- 8 3. lifeline service;
- 9 4. service connection for basic residential services;
- 10 5. direct inward dialing service for basic residential services;
- 11 6. access for all residential and business end users to 911 service provided by a
12 local authority and access to dual party relay service; and
- 13 7. flat rate business local exchange telephone service, also known as B-1 service.

14 Electing companies shall offer each basic network service as a separately tariffed
15 service in addition to any packages or other pricing flexibility offerings that include
16 those basic network services.

17 Non-basic services include all services provided by the incumbent local exchange
18 carrier that are not defined as basic network services herein, including but not
19 limited to, non-basic telecommunications, video, and broadband services and new
20 services provided by the company after the effective date of this Act.

21 Broadband services are defined as services which permit transmission speeds in either
22 direction of at least 512 kbps.

23 **Section 4. Rates Capped**

1 As a condition of election under this article, an electing company shall commit to not
2 increasing a rate for a basic network service on or before the second anniversary of
3 its election date.

4 The rates an electing company may charge on or before that second anniversary are the rates
5 charged by the company on the effective date of this Act or, for a company that elects under
6 this chapter after January 1, 2008, the rates charged on the date of its election.

7 **Section 5. Rate Adjustment by Company**

8 An electing company may increase a rate for a basic network service during the
9 election period prescribed by Section 58.054 only:

- 10 c. with commission approval; and
- 11 d. if the rate increase is necessary to compensate the electing company for
12 extraordinary cost changes which are caused by a law or regulation enacted
13 or adopted by a governmental authority; or
- 14 e. the adjustment is necessary to implement new pricing plans, restructure rates,
15 or rebalance revenues between services to recognize changed market
16 conditions and the effects of competitive entry.

17 Notwithstanding this section, an electing company may, on its own initiative,
18 decrease a rate for a basic network service during the electing period without
19 Commission approval.

20 The Commission may not:

- 21 f. order an increase in the rate for residential local exchange telephone service
22 that would cause the rate to increase by more than the rate of inflation, as
23 measured by the Gross National Product – Price Index as published by the
24 U.S. Department of Commerce, in any 12-month period; or

1 g. set the monthly rate for residential local exchange telephone service in an
2 amount that exceeds the rates for local exchange telephone services in
3 domestic insular markets.

4 The company may decrease the rate for a basic local telecommunications service to an
5 amount above the service's appropriate cost. If the company has been required to perform or
6 has elected to perform a long run incremental cost study, the appropriate cost for the service
7 is the service's long run incremental cost.

8 **Section 6. Rate Adjustment After Cap Expiration**

9 After the expiration of the period during which the rates for basic network services
10 are capped as prescribed by Section 12304, an electing company may increase a rate
11 for a basic network service only:

- 12 h. with commission approval, and
- 13 i. if supported by a change in appropriate costs.

14 **Section 7. Pricing and Packaging Flexibility**

15 Notwithstanding Section 12304, an electing company may exercise pricing flexibility
16 for basic network services, including the packaging of basic network services with
17 any other regulated or unregulated service or any service of an affiliate. The
18 company may exercise pricing flexibility in accordance with this section 10 days
19 after providing an informational notice to the Commission.

20 An electing company shall set the price of a package of services containing basic
21 network services and non-basic services at any level at or above the lesser of:

- 22 j. the sum of the long run incremental costs of any basic network services and
23 non-basic services contained in the package; or

1 k. the sum of the tariffed prices of any basic network services contained in the
2 package and the long run incremental costs of non-basic services contained in
3 the package.

4 **Section 8. Prices, Terms and Conditions for Non-Basic Services**

5 Except as provided in Section 12309, an electing company may set the price for any
6 non-basic service at any level above the lesser of the:

- 7 l. service's long run incremental cost; or
- 8 m. the price for the service in effect on the effective date of this Act.

9 Subject to Section 12.307, an electing company may use pricing flexibility for a non-
10 basic service. Pricing flexibility includes all pricing arrangements included in the
11 definition of "pricing flexibility" prescribed by Section 12.307 and includes packages
12 that include basic network services.

13 The Commission shall not regulate the rate structure, or the non-price terms and
14 conditions of any offering of a non-basic service.

15 The provisions of Sections 1200.1, 1200.2, 12105(c) and 12106 shall not apply to an
16 electing company's provision of non-basic services.

17 **Section 9. Quality of Service**

18 Any company making an election pursuant to section 12302, shall submit to the
19 commission a quality of service report on a quarterly basis which describes the
20 company's actual performance of the standards specified in section 12308(b).

21 Each company shall make reasonable business efforts to meet the following quality
22 of service standards:

- 23 1. Service Order Completion for New Residential Service – 90% of orders for
24 new residential service completed in less than 5 days:

- 1 2. Number of Held Orders – identify the number of held orders and reason
2 why held:
- 3 3. Customer Trouble Reports per Access Line – less than 6 trouble reports
4 are received per 100 access lines:
- 5 4. Trouble Tickets Cleared – 85% of trouble tickets cleared in less than 48
6 hours.
- 7 5. Network Call Completion – telephone calls are completed 98.5% of the
8 time;
- 9 6. Dial Tone Acquisition Speed – customers are able to obtain dial tone
10 within 3 seconds 98.5% of the time;
- 11 7. Repair Office Answer Time – 85% of customer calls to the repair office are
12 answered in less than 20 seconds.

13 **Section 10. Interconnection**

14 Because interconnection to competitive providers and interconnection for
15 commercial mobile service providers is essential to a competitive market,
16 interconnection is subject to the requirements of Sections 251 and 252,
17 Communications Act of 1934 (47 U.S.C. Sections 251 and 252), as amended, and
18 Federal Communications Commission rules, including the commission's authority
19 to arbitrate issues.

20 Due to a change of law that occurred after the rural exemption was originally
21 terminated and ensuing uncertainty, the rural exemption granted to incumbent local
22 exchange companies pursuant to Section 251(f)(1) of the federal Communications
23 Act is hereby reinstated for New GTA, notwithstanding any waiver by the company.

1 Notwithstanding this subsection, services provided to an interconnector as of the
2 effective date of this Act, shall continue to be provided by New GTA for a minimum
3 of one year.

4 Nothing in this section shall prohibit a telecommunications company from
5 requesting elimination of the rural exemption pursuant to the terms of Section 251(f)
6 of the federal Communications Act.