

CHAPTER 181

AN ACT concerning certain information and charges provided by telecommunications companies and amending P.L.1991, c.428 and P.L.2003, c.247.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 4 of P.L.1991, c.428 (C.48:2-21.19) is amended to read as follows:

C.48:2-21.19 Competitive services, rates not regulated; conditions.

4. a. (1) Notwithstanding the provisions of R.S.48:2-18, R.S.48:2-21, section 31 of P.L.1962, c.198 (C.48:2-21.2), R.S.48:3-1, or any other law to the contrary, the board shall not regulate, fix, or prescribe the rates, tolls, charges, rate structures, terms and conditions of service, rate base, rate of return, and cost of service, of competitive services.

(2) The board shall not require the local exchange telecommunications company or interexchange telecommunications carrier to file and maintain tariffs for retail competitive services, but shall require any terms and conditions of retail competitive services to be made available for public inspection on the Internet website of any local exchange telecommunications company or interexchange telecommunications carrier providing those services, and a printed copy of those terms and conditions be provided upon the request of a customer. Nothing in this section shall affect the ability of a local exchange telecommunications company or interexchange telecommunications carrier, in their discretion, to file tariffs with the board.

b. The board is authorized to determine, after notice and hearing, whether a telecommunications service is a competitive service. In making such a determination, the board shall develop standards of competitive service which, at a minimum, shall include evidence of ease of market entry; presence of other competitors; and the availability of like or substitute services in the relevant geographic area.

c. The board may determine, by rule, order, or in accordance with the provisions of a plan filed pursuant to subsection a. of section 3 of P.L.1991, c.428 (C.48:2-21.18), what reports are necessary to monitor the competitiveness of any telecommunications service.

d. The board shall have the authority to reclassify any telecommunications service that it has previously found to be competitive if, after notice and hearing, it determines that sufficient competition is no longer present, upon application of the criteria set forth in subsection b. of this section. Upon such a reclassification, the provisions of subsection a. of this section shall no longer apply and the board may determine such rates for that telecommunications service which it finds to be just and reasonable. The board, however, shall continue to monitor the telecommunications service and, whenever the board shall find that the telecommunications service has again become sufficiently competitive pursuant to subsection b. of this section, the board shall again apply the provisions of subsection a. of this section.

e. Notwithstanding the provisions of subsection a. of this section, the following safeguards shall apply to the offering of any competitive service by a local exchange telecommunications company:

(1) the local exchange telecommunications company shall unbundle each noncompetitive service which is incorporated in the competitive service and shall make all such noncompetitive services separately available to any customer under tariffed terms and conditions, including price, that are identical to those used by the local exchange telecommunications company in providing its competitive service;

(2) the rate which a local exchange telecommunications company charges for a competitive service shall exceed the rates charged to others for any noncompetitive services used by the local exchange telecommunications company to provide the competitive service;

(3) tariffs for competitive services that may be filed with the board shall either be in the public records, or, if the board determines that the rates are proprietary, shall be filed under seal and made available under the terms of an appropriate protective agreement, such as those used in cases before the board; and

(4) nothing in P.L.1991, c.428 (C.48:2-21.16 et seq.) shall limit the authority of the board, pursuant to R.S.48:3-1, to ensure that local exchange telecommunications companies do not make or impose unjust preferences, discriminations, or classifications for noncompetitive services.

2. Section 1 of P.L.2003, c.247 (C.48:3-2.3) is amended to read as follows:

C.48:3-2.3 Assessment of late charge on unpaid utility bill, conditions.

1. a. Notwithstanding the provisions of any law, rule, regulation, or order to the contrary, the board shall not allow a utility to assess a late payment charge on an unpaid bill unless the charge is provided for in the utility's applicable rate schedule approved by the board. A late payment charge shall not be approved by the board if the charge is applicable to bills less than 25 days after rendering. A late payment charge shall not be approved for a rate schedule applicable to a State, county or municipal government entity or any residential ratepayer.

As used in this subsection, a "utility" means a public utility, as public utility is defined in R.S.48:2-13 and including a natural gas pipeline utility as natural gas pipeline utility is defined in section 2 of P.L.1952, c.166 (C.48:10-3), and a municipally-operated utility, insofar as the board's jurisdiction is extended to the municipally-operated utility under any applicable law. "Utility" shall not mean a local exchange telecommunications company or interexchange telecommunications carrier providing a competitive service as determined by the board pursuant to section 4 of P.L.1991, c.428 (C.48:2-21.19).

b. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to effectuate the purposes of subsection a. of this section.

3. This act shall take effect on the 180th day after the date of enactment, but the Board of Public Utilities may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 13, 2014.