

Adopted	Rejected
---------	----------

COMMITTEE REPORT

YES:	8
NO:	2

MR. SPEAKER:

Your Committee on Technology, Research and Development, to which was referred Senate Bill 381, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, line 5, delete "IC 8-1-33-12." and insert "**IC 8-1-33-15.**"
- 2 Page 2, delete lines 40 through 42.
- 3 Delete pages 3 through 5.
- 4 Page 6, delete lines 1 through 3, begin a new paragraph and insert:
- 5 "SECTION 5. IC 8-1-2-1 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) **Except as**
- 7 **provided in section 1.1 of this chapter**, "public utility", as used in this
- 8 chapter, means every corporation, company, partnership, limited
- 9 liability company, individual, association of individuals, their lessees,
- 10 trustees, or receivers appointed by a court, that may own, operate,
- 11 manage, or control any plant or equipment within the state for the:
- 12 (1) conveyance of telegraph or telephone messages;
- 13 (2) production, transmission, delivery, or furnishing of heat, light,
- 14 water, or power; or
- 15 (3) collection, treatment, purification, and disposal in a sanitary

1 manner of liquid and solid waste, sewage, night soil, and
2 industrial waste.

3 The term does not include a municipality that may acquire, own, or
4 operate any of the foregoing facilities.

5 (b) "Municipal council", as used in this chapter, means the
6 legislative body of any town or city in Indiana wherein the property of
7 the public utility or any part thereof is located.

8 (c) "Municipality", as used in this chapter, means any city or town
9 of Indiana.

10 (d) "Rate", as used in this chapter, means every individual or joint
11 rate, fare, toll, charge, rental, or other compensation of any utility or
12 any two (2) or more such individual or joint rates, fares, tolls, charges,
13 rentals, or other compensation of any utility or any schedule or tariff
14 thereof, but nothing in this subsection shall give the commission any
15 control, jurisdiction, or authority over the rate charged by a municipally
16 owned utility except as in this chapter expressly provided.

17 (e) "Service" is used in this chapter in its broadest and most
18 inclusive sense and includes not only the use or accommodation
19 afforded consumers or patrons but also any product or commodity
20 furnished by any public or other utility and the plant, equipment,
21 apparatus, appliances, property, and facility employed by any public or
22 other utility in performing any service or in furnishing any product or
23 commodity and devoted to the purposes in which such public or other
24 utility is engaged and to the use and accommodation of the public.

25 (f) "Commission", as used in this chapter, means the commission
26 created by IC 8-1-1-2.

27 (g) "Utility", as used in this chapter, means every plant or equipment
28 within the state used for:

- 29 (1) the conveyance of telegraph and telephone messages;
30 (2) the production, transmission, delivery, or furnishing of heat,
31 light, water, or power, either directly or indirectly to the public;
32 (3) collection, treatment, purification, and disposal in a sanitary
33 manner of liquid and solid waste, sewage, night soil, and
34 industrial waste.

35 The term does not include a municipality that may acquire, own, or
36 operate facilities for the collection, treatment, purification, and disposal
37 in a sanitary manner of liquid and solid waste, sewage, night soil, and
38 industrial waste. A warehouse owned or operated by any person, firm,

1 limited liability company, or corporation engaged in the business of
 2 operating a warehouse business for the storage of used household goods
 3 is not a public utility within the meaning of this chapter.

4 (h) "Municipally owned utility", as used in this chapter, includes
 5 every utility owned or operated by a municipality.

6 (i) "Indeterminate permit", as used in this chapter, means every
 7 grant, directly or indirectly from the state, to any corporation, company,
 8 partnership, limited liability company, individual, association of
 9 individuals, their lessees, trustees, or receivers appointed by a court, of
 10 power, right, or privilege to own, operate, manage, or control any plant
 11 or equipment, or any part of a plant or equipment, within this state, for
 12 the:

13 (1) production, transmission, delivery, or furnishing of heat, light,
 14 water, or power, either directly or indirectly to or for the public;

15 (2) collection, treatment, purification, and disposal in a sanitary
 16 manner of liquid and solid waste, sewage, night soil, and
 17 industrial waste; or

18 (3) furnishing of facilities for the transmission of intelligence by
 19 electricity between points within this state;

20 which shall continue in force until such time as the municipality shall
 21 exercise its right to purchase, condemn, or otherwise acquire the
 22 property of such public utility, as provided in this chapter, or until it
 23 shall be otherwise terminated according to law.

24 SECTION 6. IC 8-1-2-1.1 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2005]: **Sec. 1.1. A person or an entity that:**

27 **(1) transmits communications over Internet Protocol enabled**
 28 **services, including:**

29 **(A) voice communications;**

30 **(B) data;**

31 **(C) video streams; or**

32 **(D) any combination of voice, data, and video**
 33 **communications; or**

34 **(2) provides the necessary software, hardware, transmission**
 35 **service, or transmission path for communications described in**
 36 **subdivision (1);**

37 **is not a public utility (as defined in section 1 of this chapter) solely**
 38 **by reason of engaging in any activity described in subdivisions (1)**

1 through (2).

2 SECTION 7. IC 8-1-2.6-0.1 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2005]: **Sec. 0.1. (a) As used in this chapter, "basic
5 telecommunications service" means stand alone local exchange
6 service that:**

7 (1) is provided to a residential customer through the
8 customer's primary line; and

9 (2) is:

10 (A) the sole service purchased by the customer;

11 (B) not part of a package of services, a promotion, or a
12 contract; or

13 (C) not otherwise offered at a discounted price.

14 (b) "Basic telecommunications service" includes, at a minimum,
15 the following:

16 (1) Voice grade access to the public switched telephone
17 network with minimum bandwidth of three hundred (300) to
18 three thousand (3,000) Hertz.

19 (2) Dual tone multifrequency signaling and single party
20 service.

21 (3) Access to:

22 (A) emergency services, including access to 911 and
23 enhanced 911 if provided by the local government having
24 jurisdiction in the service area;

25 (B) operator services;

26 (C) local directory assistance;

27 (D) telephone relay services; and

28 (E) interexchange service.

29 (4) Toll limitation services for qualifying low income
30 customers.

31 SECTION 8. IC 8-1-2.6-0.2 IS ADDED TO THE INDIANA CODE
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2005]: **Sec. 0.2. As used in this chapter, "basic
34 telecommunications rates and charges" means the monthly
35 recurring rate for basic telecommunications service, including:**

36 (1) flat rate and message rate service; and

37 (2) any nonrecurring charge for installation or a line or
38 service connection.

1 SECTION 9. IC 8-1-2.6-0.3 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2005]: **Sec. 0.3. (a) As used in this chapter, "nonbasic
4 telecommunications service" means retail telecommunications
5 service other than:**

6 **(1) basic telecommunications service, except when the service
7 is purchased by the customer:**

8 **(A) in conjunction with another service;**

9 **(B) as part of a package of services, a promotion, or a
10 contract; or**

11 **(C) at an otherwise discounted price;**

12 **(2) commercial mobile radio service (as defined in 47 CFR
13 51.5);**

14 **(3) services outside the jurisdiction of the commission under
15 section 1.1 of this chapter; and**

16 **(4) switched and special carrier access services.**

17 **(b) The term includes services included in:**

18 **(1) customer specific contracts;**

19 **(2) volume, term, and discount pricing options; and**

20 **(3) packages, bundles, and promotions, including offers
21 designed to win new customers, retain existing customers, or
22 win back former customers.**

23 SECTION 10. IC 8-1-2.6-0.4 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2005]: **Sec. 0.4. As used in this chapter,
26 "provider" means a person or an entity that offers basic or
27 nonbasic telecommunications service.**

28 SECTION 11. IC 8-1-2.6-0.5 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2005]: **Sec. 0.5. As used in this chapter,
31 "telecommunications" has the meaning set forth in 47 U.S.C.
32 153(43).**

33 SECTION 12. IC 8-1-2.6-0.6 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2005]: **Sec. 0.6. As used in this chapter,
36 "telecommunications service" has the meaning set forth in 47
37 U.S.C. 153(46).**

38 SECTION 13. IC 8-1-2.6-0.7 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2005]: **Sec. 0.7. As used in this chapter,**
 3 **"incumbent local exchange carrier" means a local service**
 4 **telephone utility that provides telephone service to customers in the**
 5 **geographic territory served by the local exchange and is either of**
 6 **the following:**

7 (1) **A telephone utility that on February 8, 1996, provided**
 8 **telephone exchange service in the geographic territory and**
 9 **was considered to be a member of the exchange carrier**
 10 **association under 47 CFR 69.601(b).**

11 (2) **A person or an entity that on or after February 8, 1996,**
 12 **became a successor or assignee of a member of the exchange**
 13 **carrier association described in subdivision (1).**

14 SECTION 14. IC 8-1-2.6-0.8 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2005]: **Sec. 0.8. As used in this chapter,**
 17 **"payphone service provider" means an entity, other than an**
 18 **incumbent local exchange carrier, that owns and operates public**
 19 **or semipublic pay telephones or pay telephones used to provide**
 20 **telephone service in correctional institutions.**

21 SECTION 15. IC 8-1-2.6-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. The Indiana general**
 23 **assembly hereby declares that:**

24 (1) **the maintenance of universal telephone service is a continuing**
 25 **goal of the commission in the exercise of its jurisdiction;**

26 (2) **competition has become commonplace in the provision of**
 27 **certain telephone telecommunications services in Indiana and the**
 28 **United States;**

29 (3) **advancements in and the convergence of technologies that**
 30 **provide voice, video, and data transmission, including:**

31 (A) **landline, wireless, cable, satellite, and Internet**
 32 **transmissions; and**

33 (B) **transmissions involving voice over Internet Protocol**
 34 **(VOIP), Internet Protocol enabled services, and voice over**
 35 **power lines;**

36 **are substantially increasing consumer choice, reinventing the**
 37 **marketplace with unprecedented speed, and making available**
 38 **highly competitive products and services and new methods of**

1 **delivering local exchange service.**
 2 ~~(3)~~ **(4)** traditional ~~commission~~ regulatory policies, ~~and~~ practices,
 3 and ~~existing~~ statutes are not designed to deal with a competitive
 4 environment **and technological advancements;**
 5 ~~(4)~~ **(5)** an environment in which Indiana consumers will have
 6 available the widest array of state-of-the-art ~~telephone~~
 7 **telecommunications** services at the most economic and
 8 reasonable cost possible will necessitate full and fair **facilities**
 9 **based** competition in the delivery of ~~certain telephone~~
 10 **telecommunications** services throughout ~~the state;~~ **Indiana;** and
 11 ~~(5)~~ **(6)** **streamlining of, and** flexibility in, the regulation of
 12 providers of ~~telephone~~ **telecommunications** services, **regardless**
 13 **of the technology used,** is essential to the well-being of ~~the state;~~
 14 **Indiana,** its economy, and its citizens and that the public interest
 15 requires that the commission be authorized to formulate and adopt
 16 rules and policies as will permit the commission, in the exercise
 17 of its expertise, to regulate and control the provision of ~~telephone~~
 18 **telecommunications** services to the public in an increasingly
 19 competitive **and technologically changing** environment, giving
 20 due regard to the interests of consumers and the public, **the ability**
 21 **of market forces to encourage innovation and investment,** and
 22 ~~to~~ the continued **universal** availability of ~~universal telephone~~
 23 **basic telecommunications** service.

24 SECTION 16. IC 8-1-2.6-1.1 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2005]: **Sec. 1.1. (a) The commission shall not**
 27 **exercise jurisdiction over:**

28 **(1) advanced services (as defined in 47 CFR 51.5);**
 29 **(2) broadband service, as defined by the Federal**
 30 **Communications Commission; or**
 31 **(3) any service not commercially available on February 8,**
 32 **1996.**

33 **(b) The commission shall not exercise jurisdiction over**
 34 **information services (as defined in 47 U.S.C. 153(20)) or Internet**
 35 **Protocol enabled services, as defined by the Federal**
 36 **Communications Commission, except:**

37 **(1) as expressly permitted under IC 8-1-2.8;**
 38 **(2) as may be reasonably necessary to provide for access to**

1 emergency services, including access to 911 and enhanced 911;
 2 and
 3 (3) for purposes of determining the rights and obligations of
 4 any provider concerning the payment of switched network
 5 access rates or other compensation for use of another
 6 provider's facilities or services.

7 The commission shall not impose requirements under this
 8 subsection that exceed those imposed by, or that are otherwise
 9 inconsistent with, federal law, including federal regulations.

10 SECTION 17. IC 8-1-2.6-1.2 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2005]: Sec. 1.2. (a) Except as provided in
 13 section 16 of this chapter, the commission shall not, by entering an
 14 order, adopting a rule, or taking any other action, do any of the
 15 following:

16 (1) Impose a regulation concerning any nonbasic
 17 telecommunications service unless the regulation is imposed
 18 equally and uniformly on all providers.

19 (2) Impose a service quality regulation or performance
 20 standard concerning any nonbasic telecommunications
 21 service.

22 (3) Exercise jurisdiction over:

23 (A) any nonbasic telecommunications service; or

24 (B) the provider of any nonbasic telecommunications
 25 service;

26 if the commission has declined to exercise jurisdiction over the
 27 service or provider before July 1, 2005.

28 (b) Subject to sections 12 and 16 of this chapter, after June 30,
 29 2007, the commission shall not exercise jurisdiction over any
 30 nonbasic telecommunications service except as follows:

31 (1) A provider may elect to file and maintain with the
 32 commission tariffs for nonbasic telecommunications services
 33 offered by the provider in Indiana. The commission shall
 34 permit a provider to implement a tariff, or a modification to
 35 a tariff, on the first day immediately following the date of
 36 filing with the commission.

37 (2) The commission may investigate, on a formal or an
 38 informal basis, a complaint concerning a provider's

1 compliance with a tariff filed with the commission under
 2 subdivision (1). The commission's investigation shall be
 3 limited to the sole issue of the provider's compliance with the
 4 filed tariff. The commission shall conduct a formal
 5 investigation only upon the request of any class satisfying the
 6 standing requirements of IC 8-1-2-54.

7 SECTION 18. IC 8-1-2.6-1.3 IS ADDED TO THE INDIANA
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2005]: **Sec. 1.3. (a) The commission shall not,**
 10 **by entering an order, adopting a rule, or taking any other action,**
 11 **do any of the following with respect to basic telecommunications**
 12 **services and providers of basic telecommunications services:**

13 (1) **Impose a regulation concerning any basic**
 14 **telecommunications service unless the regulation is imposed**
 15 **equally and uniformly on all providers.**

16 (2) **Impose a service quality regulation unless the regulation is**
 17 **imposed equally and uniformly on all providers.**

18 (3) **Impose a regulation or performance standard concerning**
 19 **service quality that:**

20 (A) **is more stringent than any service quality regulation or**
 21 **performance standard in effect on July 1, 2005; or**

22 (B) **measures performance more often than quarterly.**

23 (4) **Impose a reporting requirement concerning service quality**
 24 **that requires reporting to the commission more frequently**
 25 **than quarterly.**

26 (5) **Impose a regulation concerning universal availability of**
 27 **basic telecommunications service unless the regulation is**
 28 **imposed on a nondiscriminatory and competitively and**
 29 **technologically neutral basis.**

30 (6) **Exercise jurisdiction over:**

31 (A) **any basic telecommunications service; or**

32 (B) **the provider of any basic telecommunications service;**
 33 **if the commission has declined to exercise jurisdiction over the**
 34 **service or provider before July 1, 2005.**

35 (7) **Impose a regulation on, or exercise jurisdiction over:**

36 (A) **any basic telecommunications service; or**

37 (B) **the provider of any basic telecommunications service;**
 38 **if the service or provider is exempt from commission**

1 jurisdiction under IC 8-1-2-88.5 or IC 8-1-17-22.5, except as
2 allowed under IC 8-1-2-88.5 or IC 8-1-17-22.5.

3 **(b) The commission may not exercise jurisdiction over any basic**
4 **telecommunications service, including the price, terms, and**
5 **conditions of providing the service, or any provider of basic**
6 **telecommunications service in an exchange area in which the**
7 **commission finds, after notice and hearing, that basic**
8 **telecommunications service or another voice communications**
9 **service that enables customers to make and receive local voice**
10 **communications is available to customers from at least three (3)**
11 **non-affiliated providers. The commission may make a finding**
12 **under this subsection at the request of a provider or on its own**
13 **motion. In determining whether at least three (3) non-affiliated**
14 **providers serve an exchange area, the commission shall count the**
15 **following:**

16 **(1) Incumbent and other providers of traditional wireline**
17 **telecommunications services.**

18 **(2) Competitive local exchange services.**

19 **(3) Commercial mobile services providers as identified in 47**
20 **U.S.C. 331(d)(1) and either 47 CFR Part 22 or 47 CFR Part**
21 **24.**

22 **(4) Other wireless services.**

23 **(5) Cable television operators and other broadband providers**
24 **providing voice communications services.**

25 **(6) Providers of Internet Protocol enabled services such as**
26 **voice over Internet protocol (VOIP) service providers.**

27 **(c) For the purposes of making a finding under subsection (b):**

28 **(1) a commercial mobile service provider described in**
29 **subsection (b)(3) is considered an entity providing basic**
30 **telecommunications or other voice communications service;**

31 **(2) if an exchange area is served by more than one (1)**
32 **commercial mobile service provider described in subsection**
33 **(b)(3), the commercial mobile service providers count as only**
34 **one (1) nonaffiliated provider;**

35 **(3) an entity providing voice communications services is**
36 **considered a basic telecommunications services provider**
37 **regardless of whether the entity is subject to regulation by the**
38 **commission; and**

1 **(4) regardless of the technology utilized voice communications**
 2 **services means a two-way voice service capable of being**
 3 **originated and terminated with the exchange of the local**
 4 **exchange telecommunications company.**

5 **(d) The commission shall make a finding under subsection (b)**
 6 **within three (3) months after a provider's request to make a finding**
 7 **that at least three (3) basic telecommunications service providers**
 8 **or other voice communications service providers are available to**
 9 **the customers in an exchange area.**

10 **(e) Notwithstanding subsections (b) through (d), a provider may**
 11 **continue to elect to file and maintain with the commission tariffs**
 12 **for basic telecommunications services offered by the provider in**
 13 **Indiana. The commission shall permit a provider to implement a**
 14 **tariff or a modification to a tariff on the first day immediately**
 15 **following the date of filing with the commission. A provider may**
 16 **withdraw without the approval of the commission any tariff filed**
 17 **under this subsection.**

18 **(f) The commission may investigate, on a formal or an informal**
 19 **basis, a complaint concerning a provider's compliance with a tariff**
 20 **filed with the commission under subsection (e). The commission's**
 21 **investigation shall be limited to the sole issue of the provider's**
 22 **compliance with the filed tariff. The commission shall conduct a**
 23 **formal investigation only upon the request of any class satisfying**
 24 **the standing requirements of IC 8-1-2-54.**

25 **(g) An incumbent local exchange carrier shall continue to make**
 26 **available a flat monthly rate with unlimited local calling for basic**
 27 **telecommunications services in the local calling areas in which the**
 28 **provider offers basic telecommunications services on July 1, 2005.**

29 **SECTION 19. IC 8-1-2.6-2 IS AMENDED TO READ AS**
 30 **FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Notwithstanding**
 31 **any other statute, the commission may:**

32 **(1) on its own motion;**
 33 **(2) at the request of the utility consumer counselor;**
 34 **(3) at the request of one (1) or more telephone companies; or**
 35 **(4) at the request of any class satisfying the standing requirements**
 36 **of IC 8-1-2-54;**

37 **enter an order, after notice and hearing, that the public interest requires**
 38 **the commission to commence an orderly process to decline to exercise;**

1 in whole or in part, its jurisdiction over telephone companies or certain
 2 telephone services. **(a) This section applies to commission rules and
 3 orders concerning telecommunications service or providers of
 4 telecommunications service.**

5 **(b) Rules and orders described in this section:**

6 **(1) may be adopted or issued only after notice and hearing;**
 7 **and**

8 **(2) must be:**

9 **(A) consistent with this chapter; and**

10 **(B) in the public interest, as determined by the commission
 11 under subsection (d).**

12 **(c) Rules and orders described in this section must promote one
 13 (1) or more of the following:**

14 **(1) Cost minimization for providers to the extent that a
 15 provider's quality of service and facilities are not diminished.**

16 **(2) A more accurate evaluation by the commission of a
 17 provider's physical or financial conditions or needs as well as
 18 a less costly regulatory procedure for either the provider, the
 19 provider's customers, or the commission.**

20 **(3) Development of depreciation guidelines and procedures
 21 that recognize technological obsolescence.**

22 **(4) Increased provider management efficiency beneficial to
 23 customers.**

24 **(5) Regulation consistent with a competitive environment.**

25 ~~(b)~~ **(d) In determining whether the public interest will be served, as
 26 required under subsection (b), the commission shall consider:**

27 **(1) whether technological change, competitive forces, or
 28 regulation by other state and federal regulatory bodies render the
 29 exercise of jurisdiction by the commission unnecessary or
 30 wasteful;**

31 **(2) whether the exercise of commission jurisdiction produces
 32 tangible benefits to ~~telephone company~~ the customers of
 33 providers; and**

34 **(3) whether the exercise of commission jurisdiction inhibits a
 35 regulated entity from competing with unregulated providers of
 36 functionally similar ~~telephone~~ telecommunications services or
 37 equipment.**

38 ~~(c) The commission may:~~

1 (1) on its own motion;
 2 (2) at the request of the utility consumer counselor;
 3 (3) at the request of one (1) or more telephone companies; or
 4 (4) at the request of any class satisfying the standing requirements
 5 of IC 8-1-2-54;
 6 enter an order notifying any telephone company or class of telephone
 7 companies jurisdiction over which was either limited or not exercised
 8 according to this section that the commission will proceed to exercise
 9 jurisdiction over the telephone company, class of telephone companies,
 10 or class of telephone services provided by telephone companies to the
 11 extent the commission considers appropriate unless one (1) or more of
 12 those telephone companies formally request a hearing within fifteen
 13 (15) days following the date of such order.

14 SECTION 20. IC 8-1-2.6-4 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A regulatory
 16 flexibility committee is established to monitor competition in the
 17 telephone industry.

18 (b) The committee is composed of the members of a house standing
 19 committee selected by the speaker of the house of representatives and
 20 a senate standing committee selected by the president pro tempore of
 21 the senate. In selecting standing committees under this subsection, the
 22 speaker and president pro tempore shall determine which standing
 23 committee of the house of representatives and the senate, respectively,
 24 has subject matter jurisdiction that most closely relates to the electricity,
 25 gas, energy policy, and telecommunications jurisdiction of the
 26 regulatory flexibility committee. The chairpersons of the standing
 27 committees selected under this subsection shall cochair the regulatory
 28 flexibility committee.

29 (c) The commission shall, by July 1 of each year, prepare for
 30 presentation to the regulatory flexibility committee an analysis of the
 31 effects of competition **and technological change** on universal service
 32 and on pricing of all ~~telephone~~ **telecommunications** services
 33 **remaining** under the jurisdiction of the commission.

34 (d) In addition to reviewing the commission report prepared under
 35 subsection (c), the regulatory flexibility committee shall also issue a
 36 report and recommendations to the legislative council by November 1
 37 of each year that is based on a review of the following issues:

38 (1) The effects of competition in the ~~telephone~~

1 **telecommunications** industry and impact of competition **and**
 2 **technological change** on available subsidies used to maintain
 3 universal service.

4 (2) The status of modernization of the public **switched** telephone
 5 network in Indiana and the incentives required to further enhance
 6 this infrastructure.

7 (3) The effects on economic development and educational
 8 opportunities of this modernization.

9 (4) The current method of regulating ~~telephone companies~~
 10 **telecommunications providers** and the method's effectiveness.

11 (5) The economic and social effectiveness of current ~~telephone~~
 12 **telecommunications** service pricing.

13 (6) All other telecommunications issues the committee deems
 14 appropriate.

15 The report and recommendations issued under this subsection to the
 16 legislative council must be in an electronic format under IC 5-14-6.

17 (e) The regulatory flexibility committee shall meet on the call of the
 18 cochairpersons to study telecommunications issues described in
 19 subsection (d). The committee shall, with the approval of the
 20 commission, retain the independent consultants the committee considers
 21 appropriate to assist the committee in the review and study. The
 22 expenses for the consultants shall be paid by the commission.

23 SECTION 21. IC 8-1-2.6-4.1 IS ADDED TO THE INDIANA
 24 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2005]: **Sec. 4.1. (a) Not later than:**

26 **(1) July 1, 2007; and**

27 **(2) July 1 of each odd-numbered year after July 1, 2007;**

28 **the commission shall, through rulemaking under IC 4-22-2 or**
 29 **another commission proceeding, identify and eliminate regulations**
 30 **and policies concerning telecommunications services and providers**
 31 **that are no longer necessary or appropriate as a result of**
 32 **technological advancement and competition in the**
 33 **telecommunications industry.**

34 **(b) In carrying out this section, the commission shall promote**
 35 **the policies and purposes set forth in this chapter. The**
 36 **commission's annual report to the regulatory flexibility committee**
 37 **under section 4 of this chapter must:**

38 **(1) identify any regulation or policy eliminated under this**

1 **section; and**

2 **(2) justify any regulation or policy that is retained.**

3 SECTION 22. IC 8-1-2.6-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this
5 section, "rate reduction" means a decrease in either recurring or
6 nonrecurring rates or charges.

7 (b) Notwithstanding any other provision of this chapter or any other
8 statute, a ~~telephone company provider~~ may ~~subject to the prior~~
9 ~~approval of the commission~~, participate in any rate reduction program
10 for residential customers funded from revenues provided by any
11 governmental entity or other revenues administered by an agency of
12 that entity.

13 SECTION 23. IC 8-1-2.6-10 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2005]: **Sec. 10. (a) The commission shall not,**
16 **when acting under any authority delegated to the commission by**
17 **federal law, including when conducting arbitration of**
18 **interconnection agreements under the federal Telecommunications**
19 **Act of 1996, 47 U.S.C. 251 et seq., impose any requirements or set**
20 **any prices concerning:**

21 **(1) unbundled network elements;**

22 **(2) the resale of telecommunications services; or**

23 **(3) interconnection with the facilities and equipment of**
24 **providers;**

25 **that exceed, or are otherwise inconsistent with, federal laws and**
26 **regulations.**

27 **(b) The commission shall establish reasonable pricing for**
28 **unbundled network elements, the resale of telecommunications**
29 **services, and interconnection in accordance with the federal**
30 **Telecommunications Act of 1996, 47 U.S.C. 251 et seq., and all**
31 **other federal laws and regulations.**

32 **(c) This chapter does not affect:**

33 **(1) the commission's continuing authority to resolve**
34 **interconnection disputes between telecommunications carriers**
35 **that arise under the federal Telecommunications Act of 1996,**
36 **47 U.S.C. 251 et seq.; or**

37 **(2) a provider's ability to file a complaint with the commission**
38 **to have a dispute, after notice and hearing, decided by the**

1 **commission.**

2 SECTION 24. IC 8-1-2.6-11 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2005]: **Sec. 11. (a) Notwithstanding any other**
5 **law, the commission shall not, by entering an order, adopting a**
6 **rule, or taking any other action, impose a regulation or**
7 **performance standard concerning the transfer of customers**
8 **between providers unless the regulation or performance standard**
9 **is imposed equally and uniformly on all providers.**

10 (b) After a customer's telecommunications services have been
11 ported, the initial provider may, to the extent permitted by federal
12 law and by IC 24-4.7-4, contact the customer to confirm that the
13 customer has made the decision to change to the other provider.

14 (c) A provider may not refuse to transfer or facilitate the
15 transfer of a local exchange service customer of the provider to
16 another provider on the same terms and conditions that the
17 provider receives from any other provider unless the terms and
18 conditions violate federal law.

19 SECTION 25. IC 8-1-2.6-12 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2005]: **Sec. 12. This chapter does not**
22 **terminate or otherwise change the terms and conditions of a**
23 **settlement agreement approved by the commission under this**
24 **chapter before July 29, 2004.**

25 SECTION 26. IC 8-1-2.6-13 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2005]: **Sec. 13. This chapter does not modify,**
28 **affect, or nullify the responsibilities lawfully delegated to the**
29 **commission under:**

30 (1) 47 U.S.C. 251; and

31 (2) 47 U.S.C. 252.

32 SECTION 27. IC 8-1-2.6-14 IS ADDED TO THE INDIANA
33 CODE AS A NEW SECTION TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2005]: **Sec. 14. This chapter does not affect**
35 **the rights and obligations of any person or entity concerning the**
36 **payment of switched network access rates or other carrier**
37 **compensation concerning:**

38 (1) Internet Protocol enabled service;

- 1 **(2) advanced services (as defined in 47 CFR 51.5);**
 2 **(3) broadband service; or**
 3 **(4) other Internet access services.**

4 SECTION 28. IC 8-1-2.6-15 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2005]: **Sec. 15. (a) Except as provided in**
 7 **subsection (b), if there is a conflict between this chapter and**
 8 **another provision of this article, this chapter controls.**

9 **(b) This chapter does not affect the rights of a**
 10 **telecommunications provider under IC 8-1-2-88.5 or**
 11 **IC 8-1-17-22.5.**

12 SECTION 29. IC 8-1-2.6-16 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2005]: **Sec. 16. Notwithstanding any other**
 15 **statute, the commission shall retain jurisdiction to establish just**
 16 **and reasonable rates that may be charged by an incumbent local**
 17 **exchange carrier to a payphone service provider. Rates established**
 18 **under this section must be:**

- 19 **(1) based on the costs incurred by the incumbent local**
 20 **exchange carrier to provide the service;**
 21 **(2) consistent with the requirements of 47 U.S.C. 276;**
 22 **(3) nondiscriminatory; and**
 23 **(4) consistent with the pricing guidelines for payphone service**
 24 **providers established by the Federal Communications**
 25 **Commission.**

26 SECTION 30. IC 8-1-2.8-8 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. As used in this**
 28 **chapter, "local exchange telephone company" or "LEC" means a**
 29 **company authorized by the commission to provide, among other**
 30 **services, local exchange access service. The term includes a provider**
 31 **of Internet Protocol enabled services that is required to provide**
 32 **dual party relay services to hearing impaired and speech impaired**
 33 **persons under federal law.**

34 SECTION 31. IC 8-1-19.5-14 IS ADDED TO THE INDIANA
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2005]: **Sec. 14. (a) Notwithstanding**
 37 **IC 8-1-2.6, the commission may retain:**

- 38 **(1) jurisdiction over the rates, charges, and service quality of**

1 **211 services provided by telecommunications providers; and**
 2 **(2) the authority to fulfill the commission's duties under this**
 3 **chapter.**

4 **(b) The commission may not impose a rule concerning the**
 5 **service quality of 211 services provided by a telecommunications**
 6 **provider unless the rule is imposed equally and uniformly on all**
 7 **telecommunications providers.**

8 **(c) Upon a petition by:**

9 **(1) a telecommunications provider; or**

10 **(2) a recognized 211 services provider;**

11 **the commission may formally or informally investigate a**
 12 **telecommunications provider's rates and charges to determine**
 13 **whether the rates and charges are just and reasonable. For**
 14 **purposes of this section, a rate is considered reasonable if the rate**
 15 **covers the telecommunications provider's costs and allows a**
 16 **reasonable profit."**

17 Page 7, between lines 2 and 3, begin a new paragraph and insert:

18 **"Sec 2. As used in this chapter, "affordable broadband services"**
 19 **means broadband services that are available at a price reasonably**
 20 **comparable to the price charged for broadband services in an area**
 21 **that is not an underserved area."**

22 Page 7, line 3, delete "2." and insert "3."

23 Page 7, line 5, delete "3." and insert "4."

24 Page 7, line 8, delete "4." and insert "5."

25 Page 7, line 10, delete "16" and insert "15".

26 Page 7, line 11, delete "5." and insert "6."

27 Page 7, line 15, delete "6." and insert "7."

28 Page 7, line 18, delete "7." and insert "8."

29 Page 7, line 27, delete "in the" and insert "**under this section**".

30 Page 7, line 28, delete "definition of the term".

31 Page 7, line 30, delete "8." and insert "9."

32 Page 7, line 34, delete ", maintaining, and operating" and insert "**and**
 33 **maintaining**".

34 Page 8, delete lines 11 through 13.

35 Page 8, line 15, after "corporation," insert "**a rural electric**
 36 **membership corporation,**".

37 Page 8, line 41, delete "this section;" and insert "**section 14 of this**
 38 **chapter;**".

- 1 Page 9, line 6, delete "in" and insert "**within one hundred (100)**
2 **miles of**".
- 3 Page 9, line 40, after "15." insert "**(a)**".
- 4 Page 10, delete lines 7 through 14.
- 5 Page 10, line 15, delete "Indiana development finance".
- 6 Page 10, delete lines 17 through 42.
- 7 Page 11, delete lines 1 through 5.
- 8 Page 11, line 6, delete "18." and insert "**16.**".
- 9 Page 11, delete lines 9 through 11.
- 10 Page 11, line 12, delete "(2)" and insert "**(1)**".
- 11 Page 11, line 15, delete "(3)" and insert "**(2)**".
- 12 Page 11, line 17, delete "(4)" and insert "**(3)**".
- 13 Page 11, line 19, delete "infrastructure." and insert "**infrastructure**
14 **serving underserved areas.**".
- 15 Page 11, line 20, delete "(5)" and insert "**(4)**".
- 16 Page 11, delete lines 25 through 27.
- 17 Page 11, line 28, delete "(7)" and insert "**(5)**".
- 18 Page 11, line 32, delete "(8)" and insert "**(6)**".
- 19 Page 11, between lines 38 and 39, begin a new line block indented
20 and insert:
- 21 "**(7) To make expenditures necessary to carry out the**
22 **authority's duties under this chapter, including paying the**
23 **authority's operating expenses.**".
- 24 Page 12, delete lines 4 through 42.
- 25 Page 13, delete lines 1 through 41, begin a new paragraph and insert:
26 "SECTION 32. THE FOLLOWING ARE REPEALED
27 [EFFECTIVE JULY 1, 2005]: IC 8-1-2.6-3; IC 8-1-2.6-5; IC 8-1-2.6-7.
28 SECTION 33. [EFFECTIVE UPON PASSAGE] **(a) As used in this**
29 **SECTION, "commission" refers to the Indiana utility regulatory**
30 **commission created by IC 8-1-1-2.**
- 31 **(b) Not later than November 15, 2006, the commission shall**
32 **submit to the regulatory flexibility committee established by**
33 **IC 8-1-2.6-4 a report that includes an analysis of the following**
34 **issues:**
- 35 **(1) The status of competition in Indiana within the wireline**
36 **and wireless telecommunications industries and between the**
37 **wireline and wireless telecommunications industries.**
- 38 **(2) The level of concentration of ownership in the**

1 telecommunications industry and the degree to which
2 corporate mergers, acquisitions, and buyouts within the
3 industry affect consumer choices and pricing in Indiana.

4 **(3) For each county in Indiana, a breakdown of the number of**
5 **available providers of the following services:**

6 **(A) Wireline telephone services.**

7 **(B) Wireless telephone services.**

8 **(C) Wireless broadband services.**

9 **(D) Broadband services other than wireless broadband**
10 **services.**

11 **The commission shall pay particular attention to the**
12 **availability of broadband services in underserved areas (as**
13 **defined in IC 8-1-33-12, as added by this act).**

14 **(4) The effects of the following on universal service in Indiana:**

15 **(A) The convergence of telecommunications services and**
16 **technologies.**

17 **(B) State and federal regulatory decisions.**

18 **(5) The degree to which the use of new technologies in the**
19 **telecommunications industry affects the reliability of**
20 **telecommunications services, including the provision of**
21 **enhanced 911 services and 211 services.**

22 **(6) The impact on consumers and telecommunications**
23 **providers of:**

24 **(A) federal telecommunications laws and regulations; and**

25 **(B) state and federal judicial decisions concerning**
26 **telecommunications laws and regulations.**

27 **(7) A comparison of Indiana's contributions to the federal**
28 **universal services fund versus federal universal service fund**
29 **allocations or discounts provided to eligible recipients in**
30 **Indiana.**

31 **(c) The report prepared under this SECTION may be made in**
32 **conjunction with the commission's annual report to the regulatory**
33 **flexibility committee under IC 8-1-2.6-4. The commission shall**
34 **include in the report any recommendations for proposed legislation**
35 **concerning the issues analyzed in the report.**

36 **(d) The commission shall involve the following entities in the**
37 **development of the report under this SECTION:**

38 **(1) Colleges and universities.**

- 1 **(2) Rural electric membership corporations.**
- 2 **(3) Incumbent local exchange carriers.**
- 3 **(4) Competitive local exchange carriers.**
- 4 **(5) Cable television providers."**

5 Renumber all SECTIONS consecutively.
(Reference is to SB 381 as reprinted February 23, 2005.)

and when so amended that said bill do pass.

Representative Murphy