

E AND R AMENDMENTS TO LB 715

Introduced by Larson, 40, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 86-101, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5           86-101 Sections 86-101 to ~~86-163~~ and ~~section~~ 86-165 and  
6 section 3 of this act shall be known and may be cited as the  
7 Nebraska Telecommunications Regulation Act.

8           Sec. 2. Section 86-103, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10          86-103 For purposes of the Nebraska Telecommunications  
11 Regulation Act, unless the context otherwise requires, the  
12 definitions found in sections 86-104 to 86-121 and section 3 of  
13 this act apply.

14          Sec. 3. Advanced telecommunications capability service  
15 means high-speed, broadband telecommunications capability provided  
16 by a local exchange carrier that enables users to originate  
17 and receive high-quality voice, data, graphics, and video  
18 communications using any technology.

19          Sec. 4. Section 86-135, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21          86-135 (1) Any person may file an application with the  
22 commission to obtain ~~the~~ advanced telecommunications capability  
23 service furnished by a telecommunications company in the local

1 exchange ~~service~~ area adjacent to the ~~territory~~ local exchange area  
2 in which the applicant resides, ~~or operates.~~

3 (2) The commission shall serve upon each  
4 telecommunications company directly affected a copy of the  
5 application and notice of the hearing at least thirty days prior  
6 to the hearing on the application, which shall be held if all  
7 of the telecommunications companies involved do not consent to  
8 the application.

9 (3) If an application for the revision of an exchange  
10 service area includes more than one customer in a particular  
11 exchange, the commission shall consider the circumstances of  
12 each customer and the impact to the obligations of any affected  
13 telecommunications company which has not consented to the  
14 application.

15 Sec. 5. Section 86-136, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 86-136 Upon the completion of the hearing on such an  
18 application made pursuant to section 86-135, if a hearing is  
19 required, the commission may grant the application, in whole or in  
20 part, if the evidence establishes all of the following:

21 (1) That such applicant is not receiving, and will not  
22 within a reasonable time receive, ~~reasonably adequate exchange~~  
23 ~~telephone~~ reasonable advanced telecommunications capability  
24 service from the telecommunications company which furnishes such  
25 telecommunications service in the local exchange service area  
26 in which the applicant resides; ~~or operates.~~ ~~The fact that an~~  
27 ~~applicant is required to pay toll charges for long-distance~~

1 telephone calls to an exchange service area adjacent to the  
2 territory in which the applicant resides or operates shall not be  
3 deemed to constitute inadequate exchange telephone service from the  
4 telecommunications company which furnishes such service;

5 (2) ~~The~~ That the revision of the exchange service area  
6 required to grant the application will not create a duplication  
7 of facilities, is economically sound, and will not impair the  
8 capability of any telecommunications company affected to serve  
9 the remaining subscribers in any affected exchanges, and will  
10 not impose an undue and unreasonable technological or engineering  
11 burden on any affected telecommunications company; and

12 ~~(3)~~ The community of interest in the general territory is  
13 such that the public offering of each telecommunications company  
14 in its own exchange service area involved should include all the  
15 territory in its service area as revised by the commission's order;  
16 and

17 ~~(4)~~ ~~The~~ (3) That the applicant is willing and, unless  
18 waived by the affected telecommunications company, will be  
19 required to pay such construction and other costs and rates  
20 as are fair and equitable and will reimburse the affected  
21 telecommunications company for any necessary loss of undepreciated  
22 investment in existing property as determined by the commission.  
23 The amount of any payment by the applicant for construction and  
24 other costs associated with providing service to the applicant  
25 may be negotiated between the applicant and the affected  
26 telecommunications company.

27 Sec. 6. Section 86-137, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           86-137 After the commission has lawfully granted an  
3 application pursuant to section 86-136, the telecommunications  
4 company ordered to provide the ~~exchange telephone~~ advanced  
5 telecommunications capability service shall be issued a certificate  
6 of convenience and necessity to serve that ~~portion of the territory~~  
7 area added to its local exchange ~~service~~ area by the commission,  
8 if necessary. The commission shall set the date when the ~~exchange~~  
9 ~~telephone~~ service granted shall take effect and, in doing so, shall  
10 take into consideration any construction or major repair which will  
11 be required of the telecommunications company involved.

12           Sec. 7. Section 86-138, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           86-138 ~~When~~ If the commission refuses to grant an  
15 application made pursuant to section 86-135, no new application for  
16 the same ~~exchange telephone~~ advanced telecommunications capability  
17 service shall be filed or shall be considered by the commission  
18 until one year has elapsed after the date of mailing of the  
19 commission order.

20           Sec. 8. Original sections 86-103, 86-135, 86-136, 86-137,  
21 and 86-138, Reissue Revised Statutes of Nebraska, and section  
22 86-101, Revised Statutes Cumulative Supplement, 2010, are repealed.