

AMENDED IN ASSEMBLY APRIL 20, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2395

Introduced by Assembly Member Low

February 18, 2016

An act to add Section 711 to the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 2395, as amended, Low. Telecommunications: replacement of public switched telephone network.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law, until January 1, 2020, prohibits the commission from regulating Voice over Internet Protocol and Internet Protocol enabled service (IP enabled service), as defined, except as required or delegated by federal law or expressly provided otherwise in statute.

This bill would require a telephone corporation that is transitioning to IP enabled services and networks to complete a customer education and outreach program ~~explaining~~ *before seeking to withdraw traditional circuit-switched and other legacy telephone services. The education and outreach program would be required to explain* the transition from legacy public switched telephone network services regulated by the commission to IP enabled services, the benefits and advantages of IP enabled services, a description of the advanced services available to consumers, and information regarding the projected timeframes for the transition, including that withdrawal of any voice grade single-line

telephone service will not take place prior to January 1, 2020. The bill would prohibit a telephone corporation from withdrawing any voice grade single-line *circuit-switched legacy* telephone services without first giving prior notice to the commission certifying (1) that the telephone corporation has completed the education and outreach program, and (2) that an alternative voice service is available for the affected customers in the affected area. The bill would require the commission ~~to conduct a technical review~~ to confirm that the replacement service has specified elements. Upon completion of these steps, but no sooner than January 1, 2020, the bill would authorize a telephone corporation to elect to discontinue legacy telephone service upon providing not less than 90-days' notice to the affected customers and to the commission, as specified. The bill would authorize a customer of the telephone corporation, within 30 days after receipt of the notice of withdrawal of legacy voice service ~~to petition the commission to request in writing that the commission review the availability of the alternative service at the customer's location. The bill would require the commission to issue an order disposing of the petition not later than 60 days after its filing.~~ *review and resolve the customer's request within 60 days of receipt of the request.* The bill would authorize the commission, if it determines after investigation that no alternative service is available to that customer at the customer's location, ~~to attempt to identify a willing provider of voice service to serve the customer, and if no willing provider is identified, to order the withdrawing telephone corporation to provide voice service to the customer for a period no longer than 12 months after withdrawal. The bill would require the commission to establish a universal connectivity program by September 1, 2019, to ensure that those customers for whom the commission has ordered the withdrawing telephone corporation to provide voice services for the 12-month period will continue to have voice service available after that period. If an order to continue to provide voice service to a customer is issued, the bill would require the commission to evaluate whether an alternative service has become available for the customer during the period the order is in effect and if an alternative service meeting specified requirements does not become available, would authorize the commission to order the withdrawing telephone corporation to continue to provide voice service to the affected customer until an alternative service is available at the customer's location.~~

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill are within the act and require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) California continues to be the world's advanced technology
4 leader, the center of the innovation economy, and a pioneer in
5 clean and sustainable technology. The state must adopt a strategy
6 to build our digital infrastructure while retiring outdated
7 technology. The transition from 20th century traditional
8 circuit-switched and other legacy telephone services to 21st century
9 next-generation Internet Protocol (IP) networks and services is
10 taking place at an extraordinary pace. A significant majority of
11 Californians have already transitioned to upgraded communications
12 services such as high-speed Internet, Voice over Internet Protocol
13 (VoIP), and mobile telephony services.
14 (b) Between 1999 and 2015, California witnessed an estimated
15 85 percent decline in landlines providing legacy telephone services
16 and relying on dated technology. At the same time, consumer
17 adoption of advanced services over IP-based networks has
18 continued to grow. Californians have quickly adopted new
19 technologies to communicate. More than 9 out of 10 Californians
20 use a smartphone or other mobile devices, 86 percent use the
21 Internet, and there are over 5.7 million VoIP subscriptions. As of
22 2014, approximately 6 percent of Californians resided in
23 households with only a landline, a 44 percent decline from 2010.

(c) So many California consumers have made this transition so quickly because IP-based services offer greater functionality than legacy phone service. The gap will only widen with the continuing integration of IP networks with cloud computing and the Internet of Things. The policy of the state is to help all Californians transition to advanced and clean technologies and services so that everyone, including low-income, senior, and rural communities, can benefit from and participate fully in 21st century modern life.

(d) ~~The legacy telephone network is outdated, underutilized, and carbon-unfriendly when compared to the IP network. Vital economic, educational, health, and civic opportunities, including online learning, telemedicine, remote working, e-government services, and public safety, are not optimized on the outdated network. The transition from older, dated technologies to newer, more advanced technologies is nearly complete, and at some point in the not-too-distant future it will no longer be economically viable or environmentally sound to maintain legacy networks and services. The consumer demand will not be there, the economics will not support it, and the associated environmental burden will be disproportionate to its long past benefits.~~ *underutilized.*

(e) ~~Recent studies show that transitioning from a legacy switched network to an all IP network can reduce energy costs by as much as 70 percent, reduce water use for cooling by as much as 70 percent, and reduce emissions of greenhouse gases by as much as 40 percent. IP services themselves provide even further benefits, including reduced fuel and electricity use through smart logistics and telematics for efficient traffic and route management, and automated monitoring of energy use related to lighting and climate control. IP-based technologies, including remote water leakage detection and control and smart irrigation solutions for agriculture, may also serve to enable efficient use of water by consumers.~~

(f) (1) ~~This act will provide a path for the telecommunications industry to make significant contributions toward the state's goals for energy use and emissions of greenhouse gases, as set forth in the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) and the Clean Energy and Pollution Reduction Act of 2015 (Chapter 547 of the Statutes of 2015).~~

(2)

1 (e) (1) This act will establish state policy for a clearly
2 communicated, planned, and orderly transition ~~from outdated~~
3 ~~technology to cleaner~~ to advanced technologies, so that continuity
4 of service for consumers and businesses is ensured, while
5 maintaining safeguards to preserve universal connectivity.

6 ~~(3)~~

7 (2) This act will ensure that the ~~advanced~~ *alternative* services
8 replacing legacy services provide quality voice service and access
9 to emergency communications as part of a 21st century policy
10 framework.

11 ~~(4)~~

12 (3) This act will ensure that ~~advanced~~ *alternative* services are
13 available to replace legacy services before the transition, so that
14 all Californians are able to benefit from the opportunities presented
15 by advanced technologies and services.

16 SEC. 2. Section 711 is added to the Public Utilities Code, to
17 read:

18 711. (a) ~~A—Before seeking to withdraw traditional~~
19 ~~circuit-switched and other legacy telephone services pursuant to~~
20 ~~this section, a~~ telephone corporation transitioning to IP-enabled
21 services and networks shall complete a customer education and
22 outreach program explaining the IP transition, its benefits and
23 advantages, ~~including the~~ *which may include* environmental
24 benefits and advantages, and a description of the advanced services
25 available to consumers. The customer education and outreach
26 program shall also include information regarding the projected
27 timeframes for the transition, including the fact that the withdrawal
28 of any voice grade single-line telephone service will not take place
29 prior to January 1, 2020.

30 (b) A telephone corporation planning to discontinue any voice
31 grade single-line *circuit-switched legacy* telephone service shall
32 first give prior notice to the commission certifying both of the
33 following:

34 (1) The telephone corporation has completed the education and
35 outreach program prescribed in subdivision (a).

36 (2) An alternative voice service is available for the affected
37 customers in the affected area.

38 (c) Upon receipt of the notice to withdraw, the commission shall
39 ~~conduct a technical review to~~ confirm that the alternative service
40 has all of the following elements:

1 (1) Voice grade access to the public switched telephone network
2 or its successor.

3 (2) Real-time, two-way voice communications.

4 (3) Access for end users of those services to the local emergency
5 telephone systems described in the Warren-911-Emergency
6 Assistance Act (Article 6 (commencing with Section 53100) of
7 Chapter 1 of Part 1 of Division 2 of Title 5 of the Government
8 Code), and where available, enhanced 911 access.

9 (4) Alternative services ~~that require~~ *requiring* a residential power
10 supply to operate ~~shall also provide backup-battery capability~~
11 ~~consistent with the standard~~ *are in compliance with the*
12 *backup-battery capability standards* established by the Federal
13 Communications Commission.

14 (d) The commission's ~~technical review~~ *confirmation process*
15 shall be limited to the determination of whether the alternative
16 service has the elements set forth in subdivision (c) and shall be
17 completed within 120 days from receipt of notice from the
18 telephone corporation pursuant to subdivision (b). If the
19 commission fails to complete its technical review within 120 days
20 from receipt of notice, the telephone corporation will be
21 conclusively presumed to have complied with the requirements of
22 subdivisions (b) and (c).

23 (e) Upon completion of the requirements of subdivisions (b),
24 (c), and (d) for voice grade single-line *circuit-switched legacy*
25 *telephone* services, but no sooner than January 1, 2020, a telephone
26 corporation may elect to discontinue any legacy telephone service,
27 upon giving no less than 90-days' prior notice to the affected
28 customers and to the commission. If the discontinuance of legacy
29 telephone service includes voice grade single-line services, the
30 notice shall include information regarding the availability of an
31 alternative service as ~~verified~~ *confirmed* by the commission ~~in the~~
32 ~~technical review, how to petition the commission for review of~~
33 ~~the availability of the alternative service at the customer's location,~~
34 ~~and any environmental benefit that will come with the~~
35 ~~discontinuance of legacy services and the migration to alternative~~
36 ~~services; and how to seek commission review if the customer~~
37 ~~believes the alternative service is not available at the customer's~~
38 *location*. During the notice period, the telephone corporation shall
39 continue to provide the legacy telephone service to the affected
40 customers, except a customer that disconnects or changes the

features of the service, but shall have no obligation to provide the legacy telephone service to any new customers in the affected area.

(f) ~~Notwithstanding Section 710, within~~ *Within 30 days after receipt of a telephone corporation's notice of withdrawal of legacy voice service, a customer may petition request in writing that the commission to review the availability of the alternative service at the customer's location. The commission shall issue an order disposing of the petition not later than 60 days after the filing of the petition. review and resolve the customer's request within 60 days of receipt of the request. The commission's review shall be limited to determining whether an alternative service that has the elements set forth in subdivision (c) is available to the customer at that customer's location. If the commission determines after an investigation that no that an alternative service is not available to the customer at the customer's location, the commission shall attempt to identify a willing provider of voice service to serve the customer. If no willing provider is identified, the commission may order the withdrawing telephone corporation to provide voice service to the customer at the customer's location for a period no longer than 12 months after withdrawal. The willing provider or the withdrawing telephone corporation may utilize any technology or service arrangement to provide the voice services as long as it meets the requirements of subdivision (c).*

(g) ~~By September 1, 2019, the commission shall establish a universal connectivity program to ensure that those customers for whom the commission has ordered the withdrawing telephone corporation to provide voice services for the 12-month period in subdivision (f) will continue to receive voice service.~~

(g) *If an order to continue to provide voice service to a customer is issued pursuant to subdivision (f), during the period in which the withdrawing telephone corporation is required to provide voice service, the commission shall evaluate whether an alternative service has become available for the customer that is the subject of the order. If an alternative service meeting the elements of subdivision (c) does not become available during the period of the order, the commission may order the withdrawing telephone corporation to continue to provide voice service to the affected customer until an alternative service is available at the customer's location. The withdrawing telephone corporation may utilize any*

1 *technology or service arrangement to provide the voice service as*
2 *long as it meets the requirements of subdivision (c).*

3 (h) Nothing in this section grants the commission jurisdiction
4 or control over an alternative service except as specifically set
5 forth in this section.

6 (i) Nothing in this section affects a telephone corporation's
7 ability to withdraw services under any other law.

8 (j) *Nothing in this section affects or changes the commission's*
9 *authority to implement and enforce Sections 251 and 252 of the*
10 *federal Communications Act of 1934, as amended (47 U.S.C. Secs.*
11 *251 and 252), including, but not limited to, the authority to*
12 *arbitrate and enforce interconnection agreements pursuant to*
13 *Section 252(b).*

14 (k) *Nothing in this section affects or changes the obligations of*
15 *an incumbent local exchange carrier pursuant to Sections 251 and*
16 *252 of the federal Communications Act of 1934, as amended (47*
17 *U.S.C. Secs. 251 and 252). For these purposes, "incumbent local*
18 *exchange carrier" is defined as in subsection (h) of Section 251*
19 *of Title 47 of the United States Code.*

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.