ACT# 2009-461

SB373

109338-4

By Senators Smitherman, Waggoner, Coleman, French, Ross, Bedford, Little (T), and Little (Z)

RFD: Commerce, Transportation, and Utilities

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1 SB373

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4 ENROLLED, An Act,

5 To amend Sections 37-2A-2, 37-2A-4, 37-2A-6,
6 37-2A-7, 37-2A-8, and 37-2A-11 of Chapter 2A of Title 37, Code
7 of Alabama 1975, and to add Section 37-2A-5.1 to the Code of
8 Alabama 1975, the Communications Reform Act of 2005, to
9 further provide for the regulation of telephone services by
10 the Public Service Commission and to further authorize
11 Lifeline and Link-Up services to low income residential
12 customers; to provide criminal penalties for disclosure of
13 confidential information relating to the programs; and in
14 connection therewith would have as its purpose or effect the
15 requirement of a new or increased expenditure of local funds
16 within the meaning of Amendment 621 of the Constitution of
17 Alabama of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of Alabama of 1901,
19 as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 37-2A-2, 37-2A-4, 37-2A-6,
22 37-2A-7, 37-2A-8, and 37-2A-11, Code of Alabama 1975, are
23 amended to read as follows:

24 "§37-2A-2.

1 "When used in this chapter, the following words have
2 the following meanings:
3 "(1) BASIC TELEPHONE SERVICE. A retail service that
4 provides to the premises of residential customers or to the
5 premises of business customers the following features and
6 functions only:
7 "a. Dial tone.
8 "b. Access to other lines for the transmission of
9 two-way switched or dedicated communication within a local
10 calling area without additional usage sensitive charges.
11 "c. A primary directory listing.
12 "d. Dual-tone multi-frequency signaling.
13 "e. Access to operator services.
14 "f. Access to directory assistance services.
15 "g. Access to telecommunications relay services for
16 the deaf or hard-of-hearing.
17 "h. Access to 911 service where provided by a local
18 governmental authority or multi-jurisdictional authority.
19 "i. Access to inter-exchange long distance service.
20 "The term does not include service that includes any
21 feature and function other than those listed in paragraphs a.
22 through i. or that includes any other communications service,
23 even as to the features and functions that are listed in
24 paragraphs a. through i. The term also does not include
25 service to a residential customer or a business customer who

1 subscribes to more than one line of basic telephone service.
2 An incumbent local exchange carrier's rate for residential
3 basic telephone service and for a business customer who
4 subscribes to no more than one line of basic telephone service
5 shall be the same in rural areas as in urban areas of the
6 state or no higher than the rates for basic service in
7 existence on the effective date of the act adding this
8 language.
9 "(2) BROADBAND SERVICE or BROADBAND ENABLED SERVICE.
10 Any service that consists of or includes a high-speed access
11 capability to transmit at a rate that is not less than 200
12 kilobits per second either in the upstream or downstream
13 direction, and either of the following:
14 "a. Provides computer processing, information
15 storage, information content or protocol conversion, including
16 any service applications or information service provided over
17 such high-speed access service.
18 "b. Is used to provide access to the Internet.
19 "(3) BUNDLED OFFERING. A combination of retail
20 services offered as a package, whether at a single price or
21 with the availability of the price for one service contingent
22 on the purchase of other services. A bundled offering must be
23 advertised and sold as a bundled offering at rates, terms, or
24 conditions that are different than if the services are
25 purchased separately and may be comprised of any

1 telecommunications services offered by a local exchange
2 carrier in combination with any other telecommunications
3 services or with any nontelecommunications services, including
4 services offered by an affiliate of the local exchange carrier
5 or a nonaffiliated third party provider.
6 "(4) COMMISSION. The Public Service Commission of
7 the State of Alabama.
8 "(5) COMMUNICATIONS SERVICE. Any service that is
9 either a telecommunications service or an information service.
10 "(6) CONTRACT OFFERING. Any retail contractual
11 agreement, whether or not memorialized in writing, by which a
12 local exchange or inter-exchange carrier offers any
13 communications service to any existing customer or potential
14 customer.
15 "(7) ELIGIBLE TELECOMMUNICATIONS CARRIER. A
16 telecommunications carrier which qualifies for universal
17 service support under 47 U.S.C. §214(e) as a common carrier
18 and provides the services supported by the federal universal
19 support mechanisms under 47 U.S.C. §254(c) throughout the
20 service area for which eligible telecommunications carrier
21 designation is received.
22 "(8) EXCHANGE ACCESS. The offering of access to
23 telephone exchange services or facilities for the purpose of
24 origination or termination of telephone toll services.

1 "(9) EXISTING BUNDLED OFFERING. A bundled offering
2 subscribed to by the customer before September 1, 2006.
3 "(10) EXISTING CONTRACT OFFERING. Any contract
4 offering executed by the customer before September 1, 2006.
5 "(11) INCUMBENT LOCAL EXCHANGE CARRIER. With respect
6 to an area, the local exchange carrier that, on the date of
7 enactment of the Federal Telecommunications Act of 1996,
8 provided telephone exchange service in the area and was deemed
9 to be a member of the Exchange Carrier Association pursuant to
10 Section 69.601(b) of the Federal Communications Commission's
11 regulations (47 CFR 69.601(b)) or, on or after that date of
12 enactment, became a successor or assignee of a member of the
13 Exchange Carrier Association.
14 "(12) INFORMATION SERVICE. The offering of a
15 capability for generating, acquiring, storing, transforming,
16 processing, retrieving, utilizing, or making available
17 information via telecommunications, and includes electronic
18 publishing, but does not include any use of any such
19 capability for the management, control, or operation of a
20 telecommunications system or the management of a
21 telecommunications service.
22 "(13) INTER-EXCHANGE CARRIER. Any company certified
23 by the commission to provide intrastate inter-exchange
24 telecommunications service in this state.

1 "(14) LIFELINE. A program designed to increase the
2 availability of communications services to low income
3 subscribers by providing a credit to monthly recurring local
4 service to qualifying residential subscribers. The terms and
5 conditions of the program shall be in compliance with the
6 Federal Communications Commission's rules and with the
7 Telecommunications Act of 1996.
8 "(15) LINK-UP. A program designed to increase the
9 availability of communications services to low income
10 subscribers by providing a credit to the non-recurring
11 installation and service charges to qualifying residential
12 subscribers. The terms and conditions of the program shall be
13 in compliance with the Federal Communications Commission's
14 rules and with the Telecommunications Act of 1996.
15 "(16) LOCAL EXCHANGE CARRIER. Any provider of
16 telecommunications service that is engaged in the provision of
17 telephone exchange service or exchange access.
18 "(17) NEW BUNDLED OFFERING. A bundled offering
19 subscribed to by the customer on or after September 1, 2006.
20 "(18) NEW CONTRACT OFFERING. Any contract offering
21 executed by the customer on or after September 1, 2006.
22 "(19) OPTIONAL TELEPHONE FEATURES. Those central
23 office-based features that were tariffed by a local exchange
24 carrier on or before February 1, 2005, that, where available:

1 "a. Are available to a line-side connection in a
2 telephone switch;
3 "b. Are available on a stand-alone basis separate
4 from a bundled offering; and
5 "c. Enhance the utility of basic telephone service.
6 The term includes, but is not limited to, call forwarding,
7 call waiting, and caller ID.
8 "(20) TELECOMMUNICATIONS. As defined in the
9 Telecommunications Act of 1996, 47 U.S.C. §153(43).
10 "(21) TELECOMMUNICATIONS CARRIER. Any provider of
11 telecommunications services. A telecommunications carrier
12 shall be treated as subject to this chapter only to the extent
13 that it is engaged in providing telecommunications service.
14 "(22) TELECOMMUNICATIONS SERVICE. The offering of
15 telecommunications for a fee directly to the public, or to any
16 classes of users as to be effectively available directly to
17 the public, regardless of the facilities used. The term does
18 not include the provision of commercial mobile service under
19 Section 332(c) of the Federal Communications Act of 1934.
20 "(23) TELEPHONE EXCHANGE SERVICE. Either of the
21 following:
22 "a. Service within a telephone exchange, or within a
23 connected system of telephone exchanges within the same
24 exchange area operated to furnish to subscribers
25 intercommunicating service of the character ordinarily

1 furnished by a single exchange, and which is covered by the
2 exchange service charge.
3 "b. Comparable service provided through a system of
4 switches, transmission equipment, or other facilities, or
5 combination thereof, by which a subscriber can originate and
6 terminate telecommunications service.
7 "(24) VOICE OVER INTERNET PROTOCOL (VoIP) SERVICE.
8 An interconnected voice over Internet (VoIP) service, as
9 defined in 47 C.F.R. §9.3, as amended, that:
10 "a. Enables real-time, two-way voice communications;
11 "b. Requires a broadband connection from the user's
12 location;
13 "c. Requires Internet protocol-compatible customer
14 premises equipment (CPE); and
15 "d. Permits users generally to receive calls that
16 originate on the public switched telephone network and to
17 terminate calls to the public switched telephone network.
18 "§37-2A-4.
19 "(a) Notwithstanding any provision of law to the
20 contrary, the commission shall not have any jurisdiction,
21 right, power, authority, or duty to regulate, supervise,
22 control, oversee, or monitor, directly or indirectly, the
23 rates, charges, classifications, provision, or any aspect of
24 broadband service, broadband enabled services, VoIP services,
25 or information services.

1 "(b)(1) The commission may require incumbent local
2 exchange carriers to unbundle their networks, but the
3 commission shall not require the carriers to unbundle in a
4 manner that exceeds in degree or differs in kind from the
5 unbundling requirements of the Federal Communications
6 Commission.
7 "(2) Nothing in this chapter shall be construed to
8 limit or expand the duties of incumbent local exchange
9 carriers to provide unbundled access to network elements to
10 the extent required under 47 U.S.C. Sections 251, 252, and 271
11 and the Federal Communication Commission's regulations
12 implementing these sections, or the commission's authority to
13 arbitrate and enforce interconnection agreements pursuant to
14 47 U.S.C. Sections 251 and 252 and the Federal Communication
15 Commission's regulations implementing these sections.
16 "(c) Once a telecommunications service, a bundled
17 offering, or a contract offering is no longer subject to the
18 general jurisdiction of the commission as prescribed below,
19 the commission shall nevertheless retain exclusive complaint
20 jurisdiction for the telecommunications services provided,
21 either as stand-alone services or as part of a bundled
22 offering or contract offering, for complaints arising out of
23 any of the following:
24 "(1) Inaccurate billing for telecommunications
25 services.

1 "(2) Billing of telecommunications services not
2 ordered by or on behalf of the customer.
3 "(3) The establishment or disruption of
4 telecommunications service.
5 "The commission may only interpret and enforce the
6 terms and conditions of the underlying agreements or contracts
7 for telecommunications services. The commission shall not have
8 the power to set the agreement aside or alter its terms or
9 conditions, either directly or indirectly. No person or entity
10 other than the customer and his or her representative, the
11 carrier, and the Attorney General may participate in these
12 complaint proceedings before the commission. The jurisdiction
13 of the commission with respect to these retail issues shall
14 extend to formal and informal complaints and may include the
15 resolution thereof through alternative dispute resolution
16 procedures including mediation with any mediator to be chosen
17 by the commission. With respect to retail billing
18 requirements, after August 1, 2005, the commission shall
19 enforce only the Truth in Billing regulations prescribed by
20 the Federal Communications Commission and those rules
21 developed by the commission to support Truth in Billing
22 requirements as authorized by the Federal Communications
23 Commission.
24 "(4) The provision of call blocking of number
25 delivery and line blocking of number delivery in order to

1 protect the confidentiality of victims of domestic violence,
2 domestic violence shelters, or affiliated professionals
3 certified by the Alabama Coalition Against Domestic Violence
4 to be in need of blocking.
5 "(d) Beginning August 1, 2006, the commission shall
6 not have any jurisdiction, right, power, authority, or duty to
7 regulate, supervise, control, oversee, or monitor, directly or
8 indirectly, the costs, rates, charges, terms, or conditions
9 for any new bundled offering or the number or types of
10 communications services that comprise a new bundled offering,
11 but may continue to regulate, supervise, control, oversee, or
12 monitor existing bundled offerings.
13 "(e) Beginning August 1, 2006, the commission shall
14 not have any jurisdiction, right, power, authority, or duty to
15 regulate, supervise, control, oversee, or monitor, directly or
16 indirectly, the costs, rates, charges, terms, or conditions of
17 any new contract offering, but it shall retain jurisdiction
18 over existing contract offerings for the duration of the
19 existing contract offering, unless otherwise agreed to by the
20 affected customer.
21 "(f) Beginning February 1, 2007, the commission
22 shall exercise its jurisdiction, right, power, authority, or
23 duty to regulate, supervise, control, oversee, and monitor
24 basic telephone service and optional telephone features as
25 prescribed in Section 37-2A-8.

1 "(g) Beginning February 1, 2007, the commission
2 shall not have any jurisdiction, right, power, authority, or
3 duty to regulate, supervise, control, oversee, or monitor,
4 directly or indirectly, any retail telecommunications services
5 and any existing bundled offering, except as provided in
6 subsections (e) and (f) and Section 37-2A-7, nor shall it have
7 any jurisdiction, right, power, authority, or duty to
8 regulate, supervise, control, oversee, or monitor, directly or
9 indirectly, the facilities used to provide such retail
10 telecommunications services or bundled offerings.
11 "(h) Tariffs for the services remaining subject to
12 the commission's jurisdiction under subsections (d) and (e)
13 shall remain valid and in effect until (1) the date on which
14 the commission's jurisdiction ceases as contemplated in
15 subsection (g), and (2) until the last existing contract
16 offering has expired or has been replaced by a new contract
17 offering, respectively. The relevant carrier shall notify the
18 commission in writing of the expiration or replacement of the
19 last existing contract offering, identifying the expiration
20 date for the relevant tariffs, after which date the tariffs
21 shall be null and void and of no further force or effect.
22 Except as set forth above, the tariffs for those services no
23 longer subject to the commission's authority pursuant to
24 subsection (g) shall be null and void and of no further force

1 or effect from and after the date on which such jurisdiction
2 ceases.
3 "(i) The commission shall not impose or establish
4 information or reporting requirements or a uniform system of
5 accounts on any carrier that is subject to this chapter that
6 exceeds in degree or differs in kind from the requirements of
7 the Federal Communications Commission.
8 "(j) Prior to January 1, 2006, each person,
9 corporation, or other entity that provides telephone service
10 in this state shall file a plan with the commission setting
11 forth in detail how such person, corporation, or other entity
12 will protect the confidentiality of the address or location of
13 family violence shelters, as defined in Section 30-6-1, in
14 this state. The persons, corporations, and other entities
15 shall update the plans at least every 24 months. The original
16 and updated plans shall be approved by the commission within a
17 reasonable time upon a determination that the plans are
18 reasonably effective in identifying the family violence
19 shelters in the state and in maintaining the confidentiality
20 of the location and address of family violence shelters. If
21 the commission determines that a plan is inadequate, it shall
22 state the basis on which the plan was determined to be
23 inadequate and shall allow the person, corporation, or other
24 entity filing the plan a period of not more than 30 days to
25 file a revised plan that is acceptable to the commission. The

1 plans shall not be open to examination by the public. Within
2 three days of filing original plans or updates with the
3 commission, each person, corporation, or other entity subject
4 to this subsection shall submit a copy of all original plans,
5 updated plans, and revised plans to the Alabama Coalition
6 Against Domestic Violence, which is authorized to provide
7 comments concerning the plans to the commission in order to
8 aid in review and approval of the plans. The filing or
9 approval of the plans shall not in any manner be a defense to
10 any action or complaint.
11 "§37-2A-6.
12 "(a) Carriers that become regulated under subsection
13 (a) of Section 37-2A-5 shall send notice to any existing
14 retail customers who will be affected by the change in
15 regulation under subsection (g) of Section 37-2A-4 at least 45
16 days prior to February 1, 2007.
17 "(b) Carriers that become regulated under subsection
18 (c) of Section 37-2A-5 shall send notice to any existing
19 retail customers who will be affected by the change in
20 regulation under subsection (g) of Section 37-2A-4 at least 45
21 days prior to the carrier's filing pursuant to subsection (c)
22 of Section 37-2A-4.
23 "(c) Carriers that become regulated under subsection
24 (a) or (c) of Section 37-2A-5 shall send notice to any
25 existing retail customer who will be affected by the change in

1 regulation under subsections (b)(2)b. and (b)(3)d. of Section
2 37-2A-8 at least 45 days prior to the effective date of the
3 change in regulation.
4 "(d) The notice provided for in subsection (a),
5 subsection (b), and subsection (c) shall meet all of the
6 following:
7 "(1) Be posted on the carrier's web site and sent to
8 the customer's billing address via a bill message or a bill
9 insert. An incumbent local exchange carrier may also publish
10 notice in a newspaper of general circulation in the county of
11 the billing address, or an adjoining county if no newspaper of
12 general circulation is published in the county.
13 "(2) Summarize the terms and conditions under which
14 the carrier will provide service on and after the effective
15 date of the change in regulation.
16 "(3) Notify the customer that he or she may obtain a
17 copy of the terms and conditions from the carrier's web site
18 or by contacting the carrier's business office by telephone.
19 "(e) A customer who does not cancel service before
20 the effective date of the new form of regulation shall be
21 deemed to have accepted the new terms and conditions in their
22 entirety until he or she cancels the service. No person who
23 fails to receive actual notice, and no person who wishes to
24 reject the new terms and conditions, or any part thereof, but
25 fails to cancel service in a timely fashion shall have,

1 directly or indirectly in any forum, a complaint or cause of
2 action arising out of such failure or wish to reject.
3 "§37-2A-7.
4 "(a) The commission shall implement, supervise, and
5 control state and federal universal service programs in
6 compliance with federal and state law.
7 "(b)(1) Any telecommunications carrier authorized as
8 an eligible telecommunications carrier shall provide Lifeline
9 and Link-Up service to any otherwise eligible customer or
10 potential customer who meets an income eligibility test
11 established by the commission for Lifeline and Link-Up
12 customers. This test for eligibility shall be in addition to
13 the commission's current list of Lifeline and Link-Up eligible
14 low income assistance programs. Each eligible
15 telecommunications carrier shall file a tariff, provide a
16 price list, or make a Lifeline and Link-Up informational
17 filing providing, at a minimum, the current Lifeline and
18 Link-Up benefits offered by the eligible telecommunications
19 carrier to Lifeline and Link-Up customers who meet the income
20 eligibility test set forth in this subsection. Only the
21 commission shall process, certify, and maintain the supporting
22 information submitted by a customer for Lifeline and Link-Up
23 eligibility under the income test authorized by this
24 subsection. Eligible telecommunications carriers may continue
25 to process applications for Lifeline and Link-Up service based

1 on eligibility criteria other than the income test for
2 eligibility.
3 "(2) An eligible telecommunications carrier shall
4 offer a consumer who applies for and receives Lifeline service
5 the option of blocking all toll calls or, if technically
6 capable, placing a limit on the number of toll calls a
7 consumer can make. The eligible telecommunications carrier may
8 not charge the consumer an administrative charge or other
9 additional fee for blocking the service.
10 "(3) An eligible telecommunications carrier may not
11 collect a service deposit for local telecommunications service
12 in order to initiate Lifeline service if the qualifying low
13 income consumer voluntarily elects toll blocking or toll
14 limitation. If the qualifying low income consumer elects not
15 to place toll blocking on the line, an eligible
16 telecommunications carrier may charge a service deposit.
17 "(4) An eligible telecommunications carrier may not
18 charge a Lifeline subscriber a monthly number portability
19 charge or bill a Lifeline customer the Federal Universal
20 Service Charge.
21 "(5)a. An eligible telecommunications carrier shall
22 notify a Lifeline subscriber of impending termination of
23 Lifeline service for lack of qualification if the company has
24 a reasonable basis for believing that the subscriber no longer
25 qualifies. The notification of pending termination shall be in

1 the form of a letter that is separate from the bill of the
2 subscriber.
3 "b. An eligible telecommunications carrier shall
4 allow a subscriber 60 days following the date of the pending
5 termination letter to demonstrate continued eligibility. The
6 subscriber must present proof of continued eligibility. An
7 eligible telecommunications carrier may transfer a subscriber
8 off of or discontinue a Lifeline service, pursuant to its
9 tariff or its price list, if the subscriber fails to
10 demonstrate continued eligibility following such notice.
11 "c. The commission shall establish procedures for
12 the notification and termination.
13 "(6) As of the approval date of a Lifeline and
14 Link-Up application, an eligible telecommunications carrier
15 shall timely credit the bill of a consumer with the Lifeline
16 and Link-Up credits as soon as practicable, but no later than
17 90 days following processing of receipt of notice of
18 eligibility from the commission or proof of eligibility from
19 the consumer.
20 "(c)(1) The commission shall provide to each state
21 and federal agency providing benefits to persons eligible for
22 Lifeline and Link-Up competitively neutral service
23 applications, brochures, pamphlets, or other materials
24 developed with the assistance of the eligible
25 telecommunications carriers in Alabama for distribution by the

1 agency to those that apply to inform the persons of their
2 eligibility for Lifeline. Each state agency providing the
3 benefits shall furnish the materials to affected persons at
4 the time they apply for benefits.
5 "(2) An eligible telecommunications carrier may not
6 discontinue basic local exchange telephone service to a
7 subscriber who receives Lifeline service because of nonpayment
8 by the subscriber of toll charges. A subscriber who receives
9 Lifeline service shall be required to pay all applicable basic
10 local exchange service fees, including the subscriber line
11 charge, E-911, telephone relay system charges, and applicable
12 state and federal taxes.
13 "(3) An eligible telecommunications carrier may not
14 refuse to connect, reconnect, or provide Lifeline service
15 because of unpaid toll charges owed to the eligible
16 telecommunications carrier if the customer agrees to toll
17 blocking.
18 "(4) An eligible telecommunications carrier may
19 require that payment arrangements be made for outstanding debt
20 associated with basic local exchange service, subscriber line
21 charges, E-911, telephone relay system charges, and applicable
22 state and federal taxes.
23 "(5) An eligible telecommunications carrier may
24 block a Lifeline service subscriber's access to all long
25 distance service, except for toll-free numbers, including

1 blocking the ability to accept collect calls when the Lifeline
2 subscriber owes an outstanding amount for long distance
3 service or amounts resulting from collect calls. The eligible
4 telecommunications carrier may not impose a charge for
5 blocking long distance service on the Lifeline customer. The
6 eligible telecommunications carrier shall remove the block at
7 the request of the subscriber without additional cost to the
8 subscriber upon payments of the outstanding amount and, at the
9 option of the carrier, payment of a deposit.
10 "(6)a. By December 31, 2009, each state agency that
11 provides benefits to persons eligible for Lifeline and Link-Up
12 service shall undertake, in cooperation with the Department of
13 Human Resources, the Alabama Medicaid Agency, the Department
14 of Economic and Community Affairs, the commission, and
15 eligible telecommunications carriers providing Lifeline and
16 Link-Up services, the development of procedures to promote
17 Lifeline participation. The Department of Revenue shall
18 support efforts to promote Lifeline participation by including
19 information regarding Lifeline eligibility and enrollment
20 within individual state income tax instruction booklets.
21 "b. If any state agency determines that a person is
22 eligible for Lifeline and Link-Up services, the agency, upon
23 consent of the individual, shall immediately forward the
24 information to the commission to ensure the person's
25 application for Lifeline and Link-Up services can be processed

1 by the appropriate eligible telecommunications carrier. The
2 state agency shall include an option for an eligible customer
3 to choose not to subscribe to the Lifeline and Link-Up
4 services.
5 "c. Not later than December 31, 2009, the
6 commission, the Alabama Medicaid Agency, the Department of
7 Economic and Community Affairs, the Office of the Attorney
8 General, and the Department of Human Resources, shall develop
9 and adopt rules, in consultation with eligible
10 telecommunications carriers, creating procedures to
11 automatically enroll eligible customers in Lifeline and
12 Link-Up services. Agencies and parties referenced in this
13 section may exchange information that is required to identify
14 and enroll a customer in the Lifeline and Link-Up programs,
15 such as name, service address, and telephone number, between
16 themselves and with eligible telecommunications carriers. This
17 information shall remain confidential and shall be used
18 exclusively for purposes of determining Lifeline and Link-Up
19 eligibility or for Lifeline and Link-Up enrollment.
20 "d. Not later than December 31, 2009, the
21 commission, the Alabama Medicaid Agency, the Department of
22 Economic and Community Affairs, the Office of the Attorney
23 General, the Department of Human Resources, and the eligible
24 telecommunications carriers shall enter into a memorandum of
25 understanding establishing the respective duties of each

1 agency or carrier with respect to the automatic enrollment
2 procedures.
3 "e. Eligible individuals currently without
4 telecommunications service may obtain a certification of
5 eligibility for Lifeline and Link-Up services from the
6 commission prior to initiating service with an eligible
7 telecommunications carrier, allowing these individuals to be
8 precertified for Lifeline and Link-Up services.
9 "(7) By February 1, 2011, and annually thereafter,
10 the commission shall report to the Governor, the President of
11 the Senate, and the Speaker of the House of Representatives on
12 the number of customers who are subscribing to Lifeline and
13 Link-Up services and the effectiveness of any procedure to
14 promote participation.
15 "(8) The commission may adopt rules to administer
16 this section.
17 "(d)(1) Personal identifying information of a
18 participant in a Lifeline and Link-Up assistance plan under
19 this section in any record of the commission is confidential
20 and exempt from public records requirements.
21 "(2) Information made confidential and exempt under
22 this subsection may be released to the applicable
23 telecommunications carrier for purposes directly connected
24 with eligibility for, verification related to, or auditing of
25 the Lifeline and Link-Up programs.

1 "(3)a. An officer or employee of a
2 telecommunications carrier shall not intentionally disclose
3 information made confidential under this subsection unless one
4 of the following applies:
5 "1. The disclosure is authorized by the customer.
6 "2. The disclosure is necessary for billing
7 purposes.
8 "3. The disclosure is required by subpoena, court
9 order, or other process of court.
10 "4. The disclosure is necessary to disclose to a
11 governmental entity for purposes directly connected with
12 implementing service for or verifying eligibility of a
13 participant in the Lifeline and Link-Up programs or auditing
14 the Lifeline and Link-Up programs.
15 "5. The disclosure is otherwise authorized by law.
16 "b. Nothing in this section precludes a
17 telecommunications carrier from disclosing information made
18 confidential and exempt under this subsection to the extent
19 the information is otherwise publicly available or from
20 disclosing to a customer his or her own account record through
21 telephonic means.
22 "c. Any officer or employee of a telecommunications
23 carrier who intentionally discloses information in violation
24 of this subsection is guilty of a Class B misdemeanor.
25 "§37-2A-8.

1 "(a)(1) Notwithstanding any provision of law to the
2 contrary, an entity that is not an incumbent local exchange
3 carrier shall not be obligated to tariff or otherwise provide
4 basic telephone service. An incumbent local exchange carrier
5 shall provide, upon reasonable request, basic telephone
6 service to the premises of a permanent residence within its
7 franchised service territory, if the costs, including, but not
8 limited to costs of facilities, rights-of-way, and equipment,
9 of providing basic telephone service to the requesting party
10 does not exceed eight thousand dollars ($8,000).
11 "(2) If the cost exceeds eight thousand dollars
12 ($8,000), as provided in subdivision (1), an incumbent local
13 exchange carrier may not deny service on the basis of cost so
14 long as sufficient funds to provide that service are available
15 from the Alabama portion of the applicable federal universal
16 service fund program.
17 "(b)(1) Beginning February 1, 2007, the retail price
18 for basic telephone service to be offered by incumbent local
19 exchange carriers shall not exceed the highest price charged
20 by the incumbent local exchange carrier on January 31, 2007.
21 "(2)a. Beginning January 1, 2008, and every
22 succeeding January 1 through December 31, 2010, the retail
23 rates for basic telephone service may not be increased by the
24 incumbent local exchange carrier to exceed the rates of the
25 previous year as of January 1, plus any increase in the

1 Consumer Price Index for all urban consumers as reported by
2 the U.S. Department of Labor, Bureau of Labor Statistics.
3 "b. Upon the effective date of the act adding this
4 language, the commission shall not have any jurisdiction,
5 right, power, authority, or duty to regulate, supervise,
6 control, oversee, or monitor, directly or indirectly, the
7 costs, rates, charges, terms, or conditions, for any retail
8 telecommunications services provided to businesses or
9 government entities, except as provided in Section
10 37-2A-11(6).
11 "c. Beginning January 1, 2011, the commission shall
12 not have any jurisdiction, right, power, authority, or duty to
13 regulate, supervise, control, oversee, or monitor, directly or
14 indirectly, the costs, rates, charges, terms, or conditions
15 for basic telephone service.
16 "(3) a. Each optional telephone feature in a bundled
17 offering must be available on a stand-alone basis under a
18 tariff on file with the commission. If a bundled offering is
19 offered by a local exchange carrier, the carrier shall have a
20 basic telephone service tariffed offering for residential
21 customers on file with the commission.
22 "b. Beginning January 1, 2008, and through December
23 31, 2010, increases in tariffed rates for optional telephone
24 features may not exceed five percent per optional telephone
25 feature per year.

1 "c. Through December 31, 2010, a residential bundled
2 offering that consists solely of basic telephone service and
3 optional telephone features must be priced at or below the sum
4 of the tariffed price of basic telephone service and the
5 tariffed price of the associated optional telephone features.
6 "d. Beginning January 1, 2011, the commission shall
7 not have any jurisdiction, right, power, authority, or duty to
8 regulate, supervise, control, oversee, or monitor, directly or
9 indirectly, the costs, rates, charges, terms, or conditions
10 for optional telephone features.
11 "§37-2A-11.
12 "(a) This chapter is intended to supersede the
13 remainder of this title as to any matter provided for in this
14 chapter.
15 "(b) Nothing in this chapter shall do any of the
16 following:
17 "(1) Alter the jurisdiction, rights, powers,
18 authority, or duties of the commission except as specifically
19 provided for in this chapter.
20 "(2) Be interpreted to expand the commission's
21 jurisdiction, right, power, authority, or duty as it is
22 provided for in any other chapter of this title.
23 "(3) Alter any provider's obligations under state
24 911 laws.

1 "(4) Alter, amend, or modify taxes imposed by Title
2 40, or any other title of this code, unless specifically
3 provided for in this chapter.
4 "(5) Alter, amend, or modify, other than as provided
5 in subdivision (1) of subsection (b) of Section 37-2A-4, the
6 commission's authority with regard to wholesale transactions
7 between incumbent local exchange carriers and other
8 telecommunications carriers for the transmission and routing
9 of telephone exchange service and exchange access.
10 "(6) Alter or modify the current treatment of
11 tariffed emergency reporting services regulated by the
12 commission on or before February 1, 2005, and offered by local
13 exchange carriers to public safety answering points and
14 emergency communications districts.
15 "(7) Confer upon the commission the power and
16 jurisdiction to regulate and supervise any utility or
17 telecommunications carrier owned and operated by any municipal
18 corporation in the state or any municipal instrumentality, as
19 defined in subdivision (15) of Section 11-50B-2.
20 "(8) Limit the ability of the Attorney General of
21 this state to investigate claims of, and seek appropriate
22 remedies for, alleged anticompetitive pricing or illegal tying
23 of telecommunications services or other potential violations
24 of antitrust law relating to the provision of

1 telecommunications services by any carrier that becomes
2 subject to this chapter."
3 Section 2. Section 37-2A-5.1 is added to the Code of
4 Alabama 1975, to read as follows:
5 §37-2A-5.1.
6 Notwithstanding anything in this chapter to the
7 contrary, those provisions of the act that adds this section
8 which revise or create Sections 37-2A-8(b)(2)a.,
9 37-2A-8(b)(2)b., 37-2A-8(b)(2)c., 37-2A8(b)(3)a.,
10 37-2A-8(b)(3)b., 37-2A-8(b)(3)c., and 37-2A-8(b)(3)d. shall
11 not be applicable to any incumbent local exchange carrier
12 until and unless such carrier has waived in writing with the
13 commission any exemption, suspension, or modification
14 otherwise available under 47 U.S.C. 251(f).
15 Section 3. Although this bill would have as its
16 purpose or effect the requirement of a new or increased
17 expenditure of local funds, the bill is excluded from further
18 requirements and application under Amendment 621, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended, because the
21 bill defines a new crime or amends the definition of an
22 existing crime.
23 Section 4. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB373

Senate 09-APR-09

I hereby certify that the within Act originated in and passed the Senate.

McDowell Lee
Secretary

House of Representatives
Passed: 30-APR-09

By: Senator Smitherman

APPROVED May 8, 2009
TIME 1:21 pm
Bob Riley
GOVERNOR

Alabama Secretary Of State
Act Num....: 2009-461
Bill Num...: S-373
Recv'd 05/08/09 03:31pmJJB