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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



# ENROLLED

## House Bill No. 3199

(By Delegate Perdue)



Passed March 6, 2003

In Effect Ninety Days from Passage

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### H. B. 3199

(BY DELEGATE PERDUE)

[Passed March 6, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, three, four and five, article two-c, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to reduced telephone service rates for qualified low-income residential consumers; updating terms; expanding the scope of qualified persons; including additional categories of tel-assistance services; providing for additional rules and emergency rules; providing for agreements regarding revenue deficiencies; and allocating revenue deficiencies among eligible telecommunications carriers.

*Be it enacted by the Legislature of West Virginia:*

That sections one, two, three, four and five, article two-c, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 2C. REDUCED RATES FOR CERTAIN LOW-INCOME RESIDENTIAL CUSTOMERS OF TELEPHONE SERVICE.**

**§24-2C-1. Legislative findings; utilities subject to public service commission to file new rates.**

1 (a) The Legislature finds that universal telephone service  
2 contributes to the state's economic, social and political integra-  
3 tion and development. The preservation of universal telephone  
4 service is therefore of utmost importance to the state and its  
5 citizens.

6 (b) Recent changes in the telecommunications industry,  
7 however, both in its structure and in the national policy which  
8 governs it, have begun to exert a general, upward pressure on  
9 the rates for basic telephone service. Although neither the  
10 extent to which basic telephone rates may rise in the future, nor  
11 the effect of any such future increases on the general  
12 affordability of telephone service can be ascertained at this  
13 time, the Legislature finds that anticipatory action should  
14 nonetheless be taken to preserve the universal telephone service  
15 which has been substantially achieved in this state.

16 (c) All eligible telecommunications carriers providing local  
17 exchange dial access line service subject to the jurisdiction of  
18 the public service commission shall file with the commission  
19 tariffs providing for the offering of a new class of basic  
20 residential service, at a special reduced rate, to certain low-  
21 income households. Such tariffs shall be filed after the adoption  
22 of the rules mandated by subsections (b) and (c), section four of  
23 this article.

**§24-2C-2. Tel-assistance; definitions.**

1 For purposes of this article, the following terms apply:

2 (a) "Eligible telecommunications carrier" means a common  
3 carrier that offers telephone services that are supported by  
4 federal universal service support mechanism, advertises the  
5 availability of such services and the charges for the services

6 using media of general distribution, and that otherwise is  
7 qualified as an eligible telecommunications carrier pursuant to  
8 the provisions of 47 U.S.C. Section 214.

9 (b) "Qualifying low-income consumer" means a consumer  
10 who is a recipient of Medicaid, food stamps, supplemental  
11 security income, federal public housing assistance, low-income  
12 home energy assistance program benefits, temporary assistance  
13 to needy families benefits or other income-related state or  
14 federal programs.

15 (c) "Tel-assistance service" means a wholly measured or  
16 message individual, residential local exchange dial access line  
17 offered through the provisions of this article and that provides  
18 for an allowance for usage not to exceed two dollars in value.

19 (d) "Usage" means the local exchange service and the long  
20 distance service provided by the eligible telecommunications  
21 carrier furnishing the tel-assistance service.

**§24-2C-3. Monthly rate set by public service commission; prohibited and permissible charges.**

1 (a) The monthly rate for tel-assistance service shall be set  
2 initially by the commission at the lower of: (1) The lowest  
3 priced service available to the consumer at the time of his or her  
4 application; or (2) seven dollars and fifty cents. All usage  
5 exceeding two dollars in value shall be charged for at the  
6 otherwise applicable tariff rate. No other local voice telephone  
7 service may be provided to the dwelling place of a tel-assistance  
8 consumer, nor may individual line foreign zone or foreign  
9 exchange service be provided to a tel-assistance consumer. An  
10 eligible telecommunications carrier may not impose an order  
11 processing charge or line charge when an existing consumer  
12 who is eligible for tel-assistance service changes to such  
13 service, nor may any charge be made when a tel-assistance

14 service consumer loses his or her eligibility and changes to  
15 another class of residential service: *Provided*, That charges for  
16 the initial installation of service for a new consumer, or charges  
17 for moving a consumer's service from one dwelling place to  
18 another shall be made at the otherwise applicable tariff rate.

19 (b) The commission may, upon having set the rate initially  
20 for tel-assistance service as herein provided, change such rate  
21 from time to time upon a finding that is reasonable to do so, and  
22 may, in connection therewith increase or decrease the amount  
23 of local service usage provided as a part thereof.

**§24-2C-4. Availability of tel-assistance service; determination of  
eligibility; promulgation of rules.**

1 (a) All eligible telecommunications carriers shall make tel-  
2 assistance services available to qualified low-income consum-  
3 ers pursuant to tariffs or agreements filed with and approved by  
4 the public service commission.

5 (b) Insofar as permitted under federal law, eligible telecom-  
6 munications carriers may file with the public service commis-  
7 sion tariffs or agreements that, without limitation, offer tel-  
8 assistance service which includes a broader group of services,  
9 or make tel-assistance service available to a broader group of  
10 low-income residential consumers.

11 (c) The public service commission shall establish rules to  
12 implement the provisions of this article. The rules shall include,  
13 but not be limited to, procedures governing the application for  
14 and the provision of tel-assistance service; the determination,  
15 calculation and certification of the revenue deficiency resulting  
16 from the provision of tel-assistance service; criteria for estab-  
17 lishing maximum levels of revenue deficiencies that may be  
18 claimed; establishing the methods by which telephone utilities  
19 shall maintain records pertaining to such deficiency and the

20 methods by which such deficiency shall be calculated; and  
21 providing for alternate methodologies to simplify the record  
22 keeping of the eligible telecommunications carriers. The rules  
23 shall be promulgated pursuant to section seven, article one of  
24 this chapter and adopted within one hundred twenty days of the  
25 effective date of this article. The public service commission  
26 shall timely amend the rules thereafter as may be required by  
27 any provision of state or federal law.

28 (d) The department of health and human resources shall  
29 propose rules for legislative approval in accordance with the  
30 provisions of article three, chapter twenty-nine-a of this code to  
31 establish, procedures to inform eligible telecommunications  
32 carriers of the eligibility of applicants for tel-assistance service,  
33 to assist applicants for tel-assistance service in proving their  
34 eligibility therefor, to determine on a continuing basis the  
35 eligibility of persons receiving tel-assistance service, and  
36 communicate such determinations to the eligible telecommuni-  
37 cations carriers. Initially, rules shall be adopted and filed in the  
38 state register within one hundred twenty days of the effective  
39 date of this article and shall not otherwise be subject to the  
40 requirements of chapter twenty-nine-a of this code. Rules  
41 promulgated pursuant to this subsection shall become effective  
42 immediately upon filing in the state register and remain in  
43 effect until supplanted by legislative rules promulgated pursu-  
44 ant to chapter twenty-nine-a of this code.

45 (e) The secretary of the department of health and human  
46 resources or the public service commission may propose  
47 emergency rules for legislative approval in accordance with the  
48 provisions of article three, chapter twenty-nine-a of this code to  
49 implement additional provisions of this article as may be  
50 required.

**§24-2C-5. Recovery of revenue deficiencies.**

1           (a) In order to provide the special reduced rate mandated by  
2 section one of this article and still maintain the integrity of the  
3 earnings of the eligible telecommunications carriers offering  
4 tel-assistance service, the commission shall determine, upon  
5 application by any affected eligible telecommunications carrier,  
6 that eligible telecommunications carrier's revenue deficiency  
7 for the eligible telecommunications carrier's taxable year  
8 resulting from the special reduced rates. Upon determining any  
9 eligible telecommunications carrier's revenue deficiency, the  
10 commission shall issue an order certifying the amount of that  
11 deficiency. Certified revenue deficiencies shall thereafter be  
12 recovered by the affected eligible telecommunications carrier  
13 as follows:

14           (1) An eligible telecommunications carrier's certified  
15 revenue deficiency, if any, resulting from the provision of tel-  
16 assistance service shall be allowed as a tax credit against the  
17 liability of the eligible telecommunications carrier pursuant to  
18 the provisions of article thirteen-g, chapter eleven of this code.

19           (2) After allowance of such a tax credit pursuant to the  
20 provisions of article thirteen-g, chapter eleven of this code, an  
21 eligible telecommunications carrier's remaining certified  
22 revenue deficiency, if any, resulting from the provision of tel-  
23 assistance service shall be allowed as a tax credit against the  
24 liability of the eligible telecommunications carrier pursuant to  
25 the provisions of section eleven-a, article twenty-four, chapter  
26 eleven of this code.

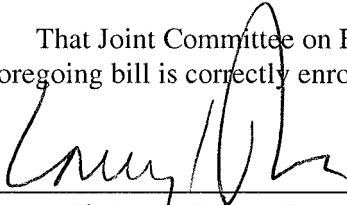
27           (b) An eligible telecommunications carrier's revenue  
28 deficiency under the provisions of section five of this article  
29 shall be limited to the amounts generated from providing tel-  
30 assistance service to qualified low-income consumers who are  
31 either disabled or age sixty or older. The agreements or tariffs  
32 required by this article shall specify the methodology by which  
33 the eligible telecommunications carrier will calculate the

34 revenue deficiency, and may include a provision to freeze the  
35 revenue deficiency at certain levels as determined by the public  
36 service commission. No such agreement or tariff by an eligible  
37 telecommunications carrier may be effective unless first  
38 approved by the public service commission.

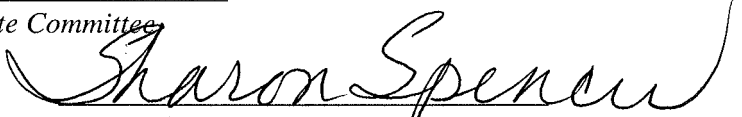
39 (c) In determining such revenue deficiency in the case of  
40 resale of tel-assistance service, the commission shall allocate  
41 the revenue deficiency between the eligible telecommunications  
42 carrier that physically provided the tel-assistance line, and the  
43 eligible telecommunications carrier that provided the tel-  
44 assistance service at retail to an eligible consumer. Such  
45 allocation shall be based on the wholesale resale discount  
46 applicable to such tel-assistance service.



That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



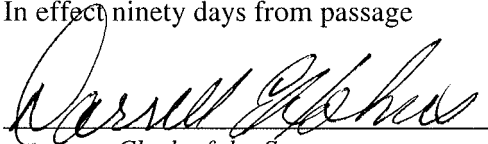
*Chairman Senate Committee*



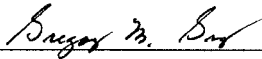
*Chairman House Committee*

Originating in the House.

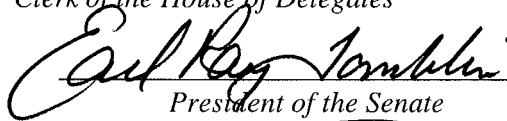
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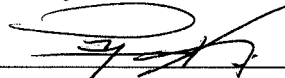
*Clerk of the Senate*



*Clerk of the House of Delegates*

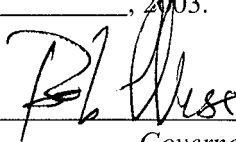


*President of the Senate*



*Speaker of the House of Delegates*

The within approved this the 18  
day of March, 2003.



*Governor*

PRESENTED TO THE  
GOVERNOR

Date 3/12/03

Time 11:10 am