

AMENDED IN ASSEMBLY MAY 20, 2019
AMENDED IN ASSEMBLY APRIL 29, 2019
AMENDED IN ASSEMBLY MARCH 25, 2019
CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1366

Introduced by Assembly Member Gonzalez

February 22, 2019

An act to add Chapter 26.5 (commencing with Section 22765) to Division 8 of the Business and Professions Code, and to amend Section 710 of the Public Utilities Code, relating to communications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, as amended, Gonzalez. Voice over Internet Protocol and Internet Protocol enabled communications services.

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, a department, an agency, or a political subdivision of the state from regulating Voice over Internet Protocol (*VoIP*) and Internet Protocol enabled service, as defined, except as required or delegated by federal law or as expressly directed to do so by statute.

This bill would extend until January 1, 2030, the qualified prohibition upon the commission, a department, an agency, or a political subdivision of the state regulating ~~Voice over Internet Protocol~~ *VoIP* and Internet Protocol enabled service, with the additional qualification that the commission, a department, an agency, or a political subdivision of the state would be authorized to exercise regulatory jurisdiction and control as expressly and specifically directed by the Legislature in the interest

of public safety or consumer protection. *The bill would require the commission to annually report to the Legislature and the Attorney General the number and type of complaints the commission received from VoIP customers about VoIP service.*

Existing law explicitly exempts from the qualified prohibition certain of the commission’s powers, including those relative to the construction and maintenance of underground facilities and overhead electric lines, as specified.

This bill would also exempt from the prohibition the commission’s authority relative to the safety of those lines and ~~facilities~~: *facilities, and its authority relative to certain network outage reporting requirements and, for participating VoIP providers, state lifeline program requirements.*

This bill would require a provider of residential interconnected VoIP service to disclose to each new residential customer any backup power requirements established in state and federal law. The bill would require the provider to include in its terms of service for residential customers a provision stating that the provider will provide to a customer, upon request, a bill credit when the customer experiences a service outage for more than 24 hours, except as provided. The bill, subject to the same exceptions, would require the provider to initiate steps to restore service within 24 hours of receiving a report of a service outage and would require the provider to restore service within 72 hours of receiving a report of the service outage.

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

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

1 SECTION 1. Chapter 26.5 (commencing with Section 22765)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 26.5. VOICE OVER INTERNET PROTOCOL (VoIP)
6 SERVICES

7
8 22765. For purposes of this article, “VoIP” means Voice over
9 Internet Protocol.

10 22765.5. (a) A provider of residential interconnected VoIP
11 service shall disclose to each new residential customer any backup

1 *power requirements established in state and federal law. The*
2 *disclosure shall advise the customer that the customer may contact*
3 *the Public Utilities Commission for additional information*
4 *regarding alternative communication services, including the*
5 *customer’s right to basic telephone service.*

6 *(b) (1) A provider of residential interconnected VoIP service*
7 *shall include in its terms of service for residential customers a*
8 *provision stating that the provider will provide to a customer, upon*
9 *request, a bill credit when the customer experiences a service*
10 *outage for more than 24 hours, excluding Sundays, federal*
11 *holidays, or periods of outage due to circumstances beyond the*
12 *provider’s control.*

13 *(2) A provider of residential interconnected VoIP service shall*
14 *initiate steps to restore service within 24 hours of receiving a*
15 *report of a service outage. The 24-hour period shall not include*
16 *Sundays, federal holidays, or periods of outage due to*
17 *circumstances beyond the provider’s control.*

18 *(3) A provider of residential interconnected VoIP service shall,*
19 *within 72 hours of receiving a report of a residential interconnected*
20 *VoIP service outage, restore service, which may include restoring*
21 *service remotely. The 72-hour period shall not include Sundays,*
22 *federal holidays, or periods of outage due to circumstances beyond*
23 *the provider’s control.*

24 *(4) For purposes of this subdivision, “circumstances beyond*
25 *the provider’s control” include, but are not limited to, an electrical*
26 *outage, catastrophic event, natural disaster, emergency proclaimed*
27 *by the Governor, cable theft, cable cut by a third party, lack of*
28 *access to the premises, or absence of customer support to test the*
29 *facilities.*

30 *(5) For purposes of this subdivision, “service outage” means*
31 *the inability of an end user to place or receive a VoIP call as a*
32 *result of a failure in the performance of the end user’s*
33 *interconnected VoIP service provider’s network.*

34 *(6) This subdivision shall not apply to a provider of residential*
35 *interconnected VoIP service that is subject to any other law or*
36 *regulation governing outage response or repair time.*

37 **SECTION 1.**

38 **SEC. 2.** Section 710 of the Public Utilities Code is amended
39 to read:

1 710. (a) (1) The commission shall not exercise regulatory
2 jurisdiction or control over Voice over Internet Protocol and
3 Internet Protocol enabled services except in accordance with one
4 of the following:

- 5 (A) As required or expressly delegated by federal law.
- 6 (B) As expressly directed to do so by statute or as set forth in
7 subdivision (c).
- 8 (C) As expressly and specifically directed by the Legislature in
9 the interest of public safety or consumer protection.

10 (2) This section does not expand the commission’s jurisdiction
11 beyond the exceptions in paragraph (1).

12 (b) (1) No department, agency, commission, or political
13 subdivision of the state shall enact, adopt, or enforce any law, rule,
14 regulation, ordinance, standard, order, or other provision having
15 the force or effect of law, that regulates VoIP or other IP enabled
16 service, except in accordance with one of the following:

- 17 (A) As required or expressly delegated by federal law.
- 18 (B) As expressly authorized by statute or pursuant to subdivision
19 (c).
- 20 (C) As expressly and specifically directed by the Legislature in
21 the interest of public safety or consumer protection.

22 (2) This section does not expand a department’s, agency’s,
23 commission’s, or political subdivision’s jurisdiction beyond the
24 exceptions in paragraph (1).

25 (c) This section does not affect or supersede any of the
26 following:

- 27 (1) The Emergency Telephone Users Surcharge Act (Part 20
28 commencing with Section 41001) of Division 2 of the Revenue
29 and Taxation Code) and the state’s universal service programs
30 ~~referenced in Section 285.~~ (Section 285).
- 31 (2) The Digital Infrastructure and Video Competition Act of
32 2006 (Division 2.5 (commencing with Section 5800)) or a franchise
33 granted by a local franchising entity, as those terms are defined in
34 Section 5830.
- 35 (3) The commission’s authority to implement and enforce
36 Sections 251 and 252 of the federal Communications Act of 1934,
37 as amended (47 U.S.C. Secs. 251 and 252).
- 38 (4) The commission’s authority to require data and other
39 information pursuant to Section 716.

1 (5) The commission’s authority to address or affect the
2 resolution of disputes regarding intercarrier compensation,
3 including for the exchange of traffic that originated, terminated,
4 or was translated at any point into Internet Protocol format.

5 (6) The commission’s authority to enforce existing requirements
6 regarding backup power systems established in commission
7 Decision 10-01-026 (January 22, 2010), Decision Adopting
8 Guidelines for Customer Education Programs Regarding Backup
9 Power Systems Pursuant to Assembly Bill 2393, adopted pursuant
10 to Section 2892.1.

11 (7) The commission’s authority relative to access to support
12 structures, including pole attachments, or to the construction,
13 safety, and maintenance of facilities pursuant to commission
14 General Order 95 and General Order 128.

15 (8) The Warren-911-Emergency Assistance Act (Article 6
16 commencing with Section 53100) of Chapter 1 of Part 1 of
17 Division 2 of Title 5 of the Government Code).

18 (9) *The requirement that facilities-based interconnected VoIP*
19 *service providers submit to the commission a copy of each network*
20 *outage reporting system report submitted to the Federal*
21 *Communications Commission pursuant to Public Utilities*
22 *Commission Decision 16-08-021 (August 29, 2016), Decision*
23 *Adopting General Order 133-D.*

24 (10) *The requirements applicable to any VoIP service provider*
25 *that voluntarily participates in the state’s lifeline program pursuant*
26 *to commission Decision 16-10-039 (November 1, 2016), Decision*
27 *Adopting Revisions to Modernize and Expand the California*
28 *Lifeline Program by Allowing Voluntary Participation by*
29 *Fixed-Voice Over Internet Protocol Service Providers Without a*
30 *Certificate of Public Convenience and Necessity.*

31 (d) This section does not affect the enforcement *by the Attorney*
32 *General or any other applicable entity* of any state or federal
33 criminal or civil law or any local ordinances of general
34 applicability, including, but not limited to, consumer protection
35 and unfair or deceptive trade practice laws or ordinances, that
36 apply to the conduct of business, the California Environmental
37 Quality Act (Division 13 (commencing with Section 21000) of
38 the Public Resources Code), local utility user taxes, *federal*
39 *requirements regarding enhanced 911 emergency telephone*

1 *service*, and state and local authority governing the use and
2 management of the public rights-of-way.

3 (e) This section does not affect any existing regulation of,
4 proceedings governing, or existing commission authority over,
5 non-VoIP and other non-IP enabled wireline or wireless service,
6 including regulations governing universal service and the offering
7 of basic service and lifeline service, and any obligations to offer
8 basic service.

9 (f) (1) This section does not limit the commission's ability to
10 continue to monitor and discuss VoIP services, to track and report
11 to the Federal Communications Commission and the Legislature,
12 ~~within its annual report to the Legislature, Legislature pursuant~~
13 ~~to this subdivision~~ the number and type of complaints received by
14 the commission from customers, ~~and to respond informally to~~
15 ~~customer complaints, including providing~~ *and to provide* VoIP
16 customers who contact the commission information regarding
17 available options under state and federal law for addressing
18 complaints.

19 (2) (A) *The commission shall annually report to the Attorney*
20 *General the number and type of complaints received by the*
21 *commission from VoIP customers about VoIP service.*

22 (B) *The commission shall include in its annual report to the*
23 *Legislature the number and type of complaints received by the*
24 *commission from VoIP customers about VoIP service.*

25 (g) This section does not affect the establishment or enforcement
26 of standards, requirements, or procedures, including procurement
27 policies, applicable to any department, agency, commission, or
28 political subdivision of the state, or to the employees, agents, or
29 contractors of a department, agency, commission, or political
30 subdivision of the state, relating to the protection of intellectual
31 property.

32 (h) This section shall remain in effect only until January 1, 2030,
33 and as of that date is repealed.