

Personnel and Maritime Safety Act of 2001.

Mr. Speaker, this is a very non-controversial bill. As with the prior bill, H.R. 1099, all of the provisions were worked out by the conferees to the Coast Guard Authorization Act of 2000 conference last year.

H.R. 1099 will help provide additional resources to combat drug smuggling, improve safety on our waterways, extend the lives of six safety advisory committees, increase the penalties for negligent operation of vessels on our Nation's waterways, improve the management for issuing documents to U.S. mariners, and allow for quicker promotions for Coast Guard officers of particular merit.

Mr. Speaker, the Coast Guard is currently drastically reducing their operations due to funding shortfalls. These reductions have been caused largely by the increased price of energy, unbudgeted personnel entitlements in the National Defense Authorization Act of 2000, and increased health care costs.

As a result, the Coast Guard has reduced current operations by 10 percent and will reduce their operations by 30 percent on April 1. Clearly, additional funding is required. Failure to provide adequate funding will result in more drugs in our communities, more illegal immigrants on our streets, and more incursions by foreign fishing vessels into our waters.

Mr. Speaker, the Coast Guard Personnel and Maritime Safety Act will improve the management of the Coast Guard, improve safety on our Nation's waterways, and provide added financial resources to help clean up oil spills.

Therefore, I strongly urge my colleagues to support passage of H.R. 1099, the Coast Guard Personnel and Maritime Safety Act of 2001.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a brief closing statement. Mr. Speaker, I would like to thank the gentleman from Massachusetts (Mr. MCGOVERN) and the gentleman from Minnesota (Mr. OBERSTAR) for their help in these matters, especially the gentleman from Alaska (Chairman YOUNG) for his advocacy of the Coast Guard.

I would like to urge each Member of this body to understand the job that the Coast Guard is doing every day, to stop making excuses for why we are not giving them the resources that they need to protect our environment, our natural resources, for drug interdiction, and all the other things that they do.

I think this is the year when we can join together shoulder to shoulder to make sure that we recognize the fine men and women of the Coast Guard and the job that they do and give them the resources necessary to continue their mission as dictated by Congress.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from New Jersey (Mr. LOBIONDO) that the House suspend the rules and pass the bill, H.R. 1099.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LOBIONDO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed, and the vote will occur tomorrow.

GENERAL LEAVE

Mr. LOBIONDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1099.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

INDEPENDENT TELECOMMUNICATIONS CONSUMER ENHANCEMENT ACT OF 2001

Mr. UPTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 496) to amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes, as amended.

The Clerk read as follows:

H. R. 496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Telecommunications Consumer Enhancement Act of 2001".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Telecommunications Act of 1996 was enacted to foster the rapid deployment of advanced telecommunications and information technologies and services to all Americans by promoting competition and reducing regulation in telecommunications markets nationwide.

(2) The Telecommunications Act of 1996 specifically recognized the unique abilities and circumstances of local exchange carriers with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide.

(3) Given the markets two percent carriers typically serve, such carriers are uniquely positioned to accelerate the deployment of advanced services and competitive initiatives for the benefit of consumers in less densely populated regions of the Nation.

(4) Existing regulations are typically tailored to the circumstances of larger carriers and therefore often impose disproportionate burdens on two percent carriers, impeding such carriers' deployment of advanced telecommunications services and competitive initiatives to consumers in less densely populated regions of the Nation.

(5) Reducing regulatory burdens on two percent carriers will enable such carriers to devote additional resources to the deployment of advanced services and to competitive initiatives to benefit consumers in less densely populated regions of the Nation.

(6) Reducing regulatory burdens on two percent carriers will increase such carriers' ability to respond to marketplace conditions, allowing them to accelerate deployment of advanced services and competitive initiatives to benefit consumers in less densely populated regions of the Nation.

(b) PURPOSES.—The purposes of this Act are—

(1) to accelerate the deployment of advanced services and the development of competition in the telecommunications industry for the benefit of consumers in all regions of the Nation, consistent with the Telecommunications Act of 1996, by reducing regulatory burdens on local exchange carriers with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide;

(2) to improve such carriers' flexibility to undertake such initiatives; and

(3) to allow such carriers to redirect resources from paying the costs of such regulatory burdens to increasing investment in such initiatives.

SEC. 3. DEFINITION.

Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(1) by redesignating paragraphs (51) and (52) as paragraphs (52) and (53), respectively; and

(2) by inserting after paragraph (50) the following:

“(51) TWO PERCENT CARRIER.—The term ‘two percent carrier’ means an incumbent local exchange carrier within the meaning of section 251(h) whose access lines, when aggregated with the access lines of any local exchange carrier that such incumbent local exchange carrier directly or indirectly controls, is controlled by, or is under common control with, are fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide.”.

SEC. 4. REGULATORY RELIEF FOR TWO PERCENT CARRIERS.

Title II of the Communications Act of 1934 is amended by adding at the end thereof a new part IV as follows:

“PART IV—PROVISIONS CONCERNING TWO PERCENT CARRIERS

“SEC. 281. REDUCED REGULATORY REQUIREMENTS FOR TWO PERCENT CARRIERS.

“(a) COMMISSION TO TAKE INTO ACCOUNT DIFFERENCES.—In adopting rules that apply to incumbent local exchange carriers (within the meaning of section 251(h)), the Commission shall separately evaluate the burden that any proposed regulatory, compliance, or reporting requirements would have on two percent carriers.

“(b) EFFECT OF COMMISSION'S FAILURE TO TAKE INTO ACCOUNT DIFFERENCES.—If the Commission adopts a rule that applies to incumbent local exchange carriers and fails to separately evaluate the burden that any proposed regulatory, compliance, or reporting requirement would have on two percent carriers, the Commission shall not enforce the rule against two percent carriers unless and until the Commission performs such separate evaluation.

“(c) ADDITIONAL REVIEW NOT REQUIRED.—Nothing in this section shall be construed to require the Commission to conduct a separate evaluation under subsection (a) if the rules adopted do not apply to two percent carriers, or such carriers are exempted from such rules.

“(d) SAVINGS CLAUSE.—Nothing in this section shall be construed to prohibit any size-based differentiation among carriers mandated by this

Act, chapter 6 of title 5, United States Code, the Commission's rules, or any other provision of law.

“(e) **EFFECTIVE DATE.**—The provisions of this section shall apply with respect to any rule adopted on or after the date of enactment of this section.

“SEC. 282. LIMITATION OF REPORTING REQUIREMENTS.

“(a) **LIMITATION.**—The Commission shall not require a two percent carrier—

“(1) to file cost allocation manuals or to have such manuals audited or attested, but a two percent carrier that qualifies as a class A carrier shall annually certify to the Commission that the two percent carrier's cost allocation complies with the rules of the Commission; or

“(2) to file Automated Reporting and Management Information Systems (ARMIS) reports.

“(b) **PRESERVATION OF AUTHORITY.**—Except as provided in subsection (a), nothing in this Act limits the authority of the Commission to obtain access to information under sections 211, 213, 215, 218, and 220 with respect to two percent carriers.

“SEC. 283. INTEGRATED OPERATION OF TWO PERCENT CARRIERS.

“The Commission shall not require any two percent carrier to establish or maintain a separate affiliate to provide any common carrier or noncommon carrier services, including local and interexchange services, commercial mobile radio services, advanced services (within the meaning of section 706 of the Telecommunications Act of 1996), paging, Internet, information services or other enhanced services, or other services. The Commission shall not require any two percent carrier and its affiliates to maintain separate officers, directors, or other personnel, network facilities, buildings, research and development departments, books of account, financing, marketing, provisioning, or other operations.

“SEC. 284. PARTICIPATION IN TARIFF POOLS AND PRICE CAP REGULATION.

“(a) **NECA POOL.**—The participation or withdrawal from participation by a two percent carrier of one or more study areas in the common line tariff administered and filed by the National Exchange Carrier Association or any successor tariff or administrator shall not obligate such carrier to participate or withdraw from participation in such tariff for any other study area. The Commission may require a two percent carrier to give 60 days notice of its intent to participate or withdraw from participation in such common line tariff with respect to a study area. Except as permitted by section 310(f)(3), a two percent carrier's election under this subsection shall be binding for one year from the date of the election.

“(b) **PRICE CAP REGULATION.**—A two percent carrier may elect to be regulated by the Commission under price cap rate regulation, or elect to withdraw from such regulation, for one or more of its study areas. The Commission shall not require a carrier making an election under this subsection with respect to any study area or areas to make the same election for any other study area. Except as permitted by section 310(f)(3), a two percent carrier's election under this subsection shall be binding for one year from the date of the election.

“SEC. 285. DEPLOYMENT OF NEW TELECOMMUNICATIONS SERVICES BY TWO PERCENT COMPANIES.

“(a) **ONE-DAY NOTICE OF DEPLOYMENT.**—The Commission shall permit two percent carriers to introduce new interstate telecommunications services by filing a tariff on one day's notice showing the charges, classifications, regulations, and practices therefor, without obtaining a waiver, or make any other showing before the Commission in advance of the tariff filing. The Commission shall not have authority to approve or disapprove the rate structure for such services shown in such tariff.

“(b) **DEFINITION.**—For purposes of subsection (a), the term ‘new interstate telecommunications

service’ means a class or subclass of service not previously offered by the two percent carrier that enlarges the range of service options available to ratepayers of such carrier.

“SEC. 286. ENTRY OF COMPETING CARRIER.

“(a) **PRICING FLEXIBILITY.**—Notwithstanding any other provision of this Act, any two percent carrier shall be permitted to deaverage its interstate switched or special access rates, file tariffs on one day's notice, and file contract-based tariffs for interstate switched or special access services immediately upon certifying to the Commission that a telecommunications carrier unaffiliated with such carrier is engaged in facilities-based entry within such carrier's service area. A two percent carrier subject to rate-of-return regulation with respect to an interstate switched or special access service, for which pricing flexibility has been exercised pursuant to this subsection, shall compute its interstate rate of return based on the nondiscounted rate for such service.

“(b) **PRICING DEREGULATION.**—Notwithstanding any other provision of this Act, upon receipt by the Commission of a certification by a two percent carrier that a local exchange carrier that is not a two percent carrier is engaged in facilities-based entry within the two percent carrier's service area, the Commission shall regulate such two percent carrier as non-dominant, and therefore shall not require the tariffing of the interstate service offerings of such two percent carrier.

“(c) **PARTICIPATION IN EXCHANGE CARRIER ASSOCIATION TARIFF.**—A two percent carrier that meets the requirements of subsection (a) or (b) of this section with respect to one or more study areas shall be permitted to participate in the common line tariff administered and filed by the National Exchange Carrier Association or any successor tariff or administrator, by electing to include one or more of its study areas in such tariff.

“(d) **DEFINITIONS.**—For purposes of this section:

“(1) **FACILITIES-BASED ENTRY.**—The term ‘facilities-based entry’ means, within the service area of a two percent carrier—

“(A) the provision or procurement of local telephone exchange switching or its equivalent; and

“(B) the provision of telephone exchange service to at least one unaffiliated customer.

“(2) **CONTRACT-BASED TARIFF.**—The term ‘contract-based tariff’ shall mean a tariff based on a service contract entered into between a two percent carrier and one or more customers of such carrier. Such tariff shall include—

“(A) the term of the contract, including any renewal options;

“(B) a brief description of each of the services provided under the contract;

“(C) minimum volume commitments for each service, if any;

“(D) the contract price for each service or services at the volume levels committed to by the customer or customers;

“(E) a brief description of any volume discounts built into the contract rate structure; and

“(F) a general description of any other classifications, practices, and regulations affecting the contract rate.

“(3) **SERVICE AREA.**—The term ‘service area’ has the same meaning as in section 214(e)(5).

“SEC. 287. SAVINGS PROVISIONS.

“(a) **COMMISSION AUTHORITY.**—Nothing in this part shall be construed to restrict the authority of the Commission under sections 201 through 208.

“(b) **RURAL TELEPHONE COMPANY RIGHTS.**—Nothing in this part shall be construed to diminish the rights of rural telephone companies otherwise accorded by this Act, or the rules, policies, procedures, guidelines, and standards of the Commission as of the date of enactment of this section.”.

SEC. 5. LIMITATION ON MERGER REVIEW.

(a) **AMENDMENT.**—Section 310 of the Communications Act of 1934 (47 U.S.C. 310) is amended by adding at the end the following:

“(f) **DEADLINE FOR MAKING PUBLIC INTEREST DETERMINATION.**—

“(1) **TIME LIMIT.**—In connection with any merger between two percent carriers, or the acquisition, directly or indirectly, by a two percent carrier or its affiliate of securities or assets of another two percent carrier or its affiliate, if the merged or acquiring carrier remains a two percent carrier after the merger or acquisition, the Commission shall make any determinations required by this section and section 214, and shall rule on any petition for waiver of the Commission's rules or other request related to such determinations, not later than 60 days after the date an application with respect to such merger or acquisition is submitted to the Commission.

“(2) **APPROVAL ABSENT ACTION.**—If the Commission does not approve or deny an application as described in paragraph (1) by the end of the period specified, the application shall be deemed approved on the day after the end of such period. Any such application deemed approved under this subsection shall be deemed approved without conditions.

“(3) **ELECTION PERMITTED.**—The Commission shall permit a two percent carrier to make an election pursuant to section 284 with respect to any local exchange facilities acquired as a result of a merger or acquisition that is subject to the review deadline established in paragraph (1) of this subsection.”.

(b) **EFFECTIVE DATE.**—The provisions of this section shall apply with respect to any application that is submitted to the Commission on or after the date of enactment of this Act. Applications pending with the Commission on the date of enactment of this Act shall be subject to the requirements of this section as if they had been filed with the Commission on the date of enactment of this Act.

SEC. 6. TIME LIMITS FOR ACTION ON PETITIONS FOR RECONSIDERATION OR WAIVER.

(a) **AMENDMENT.**—Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by adding to the end the following:

“(c) **EXPEDITED ACTION REQUIRED.**—

“(1) **TIME LIMIT.**—Within 90 days after receiving from a two percent carrier a petition for reconsideration or other review filed under this section or a petition for waiver of a rule, policy, or other Commission requirement, the Commission shall issue an order granting or denying such petition. If the Commission fails to act on a petition for waiver subject to the requirements of this section within this 90-day period, the relief sought in such petition shall be deemed granted. If the Commission fails to act on a petition for reconsideration or other review subject to the requirements of this section within such 90-day period, the Commission's enforcement of any rule the reconsideration or other review of which was specifically sought by the petitioning party shall be stayed with respect to that party until the Commission issues an order granting or denying such petition.

“(2) **FINALITY OF ACTION.**—Any order issued under paragraph (1), or any grant of a petition for waiver that is deemed to occur as a result of the Commission's failure to act under paragraph (1), shall be a final order and may be appealed.”.

(b) **EFFECTIVE DATE.**—The provisions of this section shall apply with respect to any petition for reconsideration or other review or petition for waiver that is submitted to the Commission on or after the date of enactment of this Act. Petitions for reconsideration or petitions for waiver pending with the Commission on the date of enactment of this Act shall be subject to the requirements of this section as if they had been filed on the date of enactment of this Act.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentleman from

Michigan (Mr. UPTON) and the gentleman from Wisconsin (Mr. BARRETT) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on H.R. 496.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 496, the Independent Telecommunications Consumer Enhancement Act of 2001. This legislation provides common sense regulatory relief that will enable small and mid-size telephone companies to respond to competition in their service territories.

For too long, telephone companies have been saddled with unnecessary and burdensome regulations that increase the costs associated with providing phone service. The current regulatory framework for incumbent local exchange carriers is, to say the least, antiquated.

Too often, the FCC imposes one-size-fits-all rules on all carriers, neglecting to take into account the size of carriers and the difference in the level of competition faced by carriers that serve disparate geographic regions. Reports must be filed that are rarely, if ever, read probably by FCC staff, reports that literally cost millions and millions of dollars and certainly countless man-hours to compile.

The FCC also imposes rigid rules on the types of price regulation that small and mid-size carriers may, in fact, elect. These rigid rules prevent a carrier from electing different regulatory treatment for different parts of its territory, even if the carrier serves distinctive regions of a State or the country, and the costs to provide such service in these regions is simply not the same.

The FCC's rules also do not give small and mid-size carriers the flexibility to offer discounts to reflect competitive conditions in their service territory.

Mr. Speaker, one final area that the bill addresses concerns the process through which the FCC issues decisions on mergers and waivers of the Commission's rules. Mr. Speaker, this process takes way too long. Mergers of small and mid-size carriers, or the acquisition of one of these carriers of access lines belonging to a large carrier, should be decided within 60 days. Requests for waivers or reconsideration of the commission's rules governing the activities of small and mid-size companies should not take longer than 90 days. Both of these timetables give the FCC plenty of time to make the review.

Mr. Speaker, I would like to reiterate that this bill provides common sense

relief to those incumbent local exchange carriers that possess fewer than 2 percent of the Nation's access lines.

I commend in particular the gentlewoman from Wyoming (Mrs. CUBIN), my good friend and colleague, for authoring this legislation again; and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join my colleagues on the Committee on Energy and Commerce in support of the Independent Telecommunications Consumer Enhancement Act. Along with the gentleman from Tennessee (Mr. GORDON) and the gentleman from Mississippi (Mr. PICKERING), I was an original cosponsor of the bill introduced by the gentlewoman from Wyoming (Mrs. CUBIN) in the previous Congress and re-introduced this year.

The gentleman from Tennessee (Mr. GORDON) had intended to be here to manage this bill this morning, but he and his wife, Leslie, are welcoming their new baby daughter, Peyton Margaret, into the world this morning. So I offer my congratulations to both of them for that.

The Independent Telecommunications Consumer Enhancement Act, approved by voice vote on the House floor last year, would relax some of the FCC's one-size-fits-all regulations for our Nation's small and mid-size local telephone companies, those with less than 2 percent of the Nation's phone lines.

These companies serve rural and suburban communities across the country and are poised to offer broadband and other advanced services to customers who are often outside the scope of the larger companies. This bill will reduce paperwork for the smaller companies, increase their pricing flexibility, and allow them to bundle services on one bill without reopening the 1996 Telecommunications Act.

In my State of Wisconsin, 81 of the 83 companies providing local service are classified as 2 percent companies. By freeing these companies from portions of a regulatory system designed with much larger companies in mind, we will be taking an important first step towards bridging the digital divide by allowing for increased investment in Internet facilities in rural and suburban areas.

I urge my colleagues to support this common sense legislation, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. UPTON. Mr. Speaker, I yield 5 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, last year I introduced legislation similar to H.R. 496 that began a process to force the Federal Communications Commission to administer small and mid-size telecommunications companies differently during its regulatory deliberations.

This bill passed by unanimous voice vote in the House and in the Committee on Commerce. This legislation does nothing more than clear out the regulatory underbrush that makes it difficult for small and mid-size companies to offer the same types of services that their sometimes larger competitors do.

Let me give my colleagues an idea of the companies in my State that we are talking about. H.R. 496 helps companies like small telephone carriers in Chugwater, Wyoming, Chugwater Telephone Company, which has 300 access lines. All West Communications has 363 access lines. Project Telephone Company, 219. Union Telephone, 1,600. It is one of the larger. These are the types of carriers that are in my district, and my colleagues will find these types of carriers all over the country. These are the carriers we are trying to help not have to fill out the extraordinarily complex and expensive forms that the larger companies, AT&T and some of the larger companies, have to do.

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The intention was then and it continues to be my intention today to lessen the regulatory burdens on small and mid-sized telephone companies so that they can streamline their business plans and, hopefully, shift some more of their resources to deploying advanced telecommunication services to all areas of the country, including rural areas.

With the help of many of my colleagues, and I sincerely thank them, especially the chairman of the Committee on Commerce, the gentleman from Louisiana (Mr. TAUZIN); the gentleman from Michigan (Mr. UPTON), the subcommittee chairman; the gentleman from Mississippi (Mr. PICKERING); the gentleman from Wisconsin (Mr. BARRETT); the gentleman from Tennessee (Mr. GORDON); and the gentleman from Oklahoma (Mr. LARGENT). I really appreciate the help that they have given in getting this bill to this point.

The FCC, to its credit, has made some headway in this area, and I do commend them for it, however, they cannot seem to get the ball across the goal line. In 1999, the Commission initiated a process to reduce accounting requirements for small telecommunications companies; and although we have seen some incremental steps and public meetings held, we have yet to see a final product. I said it last year and I will restate it, because I think it is very important, the Commission's time line on finalizing the accounting and reporting standards has changed like the Wyoming winds. My bill does nothing more than what the Commission already says it is attempting to do.

One of the concerns I heard last year was that the bill would somehow make it impossible to collect sufficient cost data to determine its high-cost support mechanisms. My colleagues all know

that I represent the most rural State in the country and, as such, Federal universal service support is absolutely critical. I would never do anything to compromise universal service.

In a letter written to me last month by the president of the National Association of Regulatory Utility Commissioners, or NARUC, and the Chair of the NARUC Telecom Committee made it clear that nothing in this bill, and I quote, "precludes States from access to information needed in State proceedings through data requests or similar methods. We understand that this bill does not affect underlying accounting rules nor prohibitions against cross subsidies."

Let me be clear. This bill does nothing to take away any authority from the FCC in requesting necessary paperwork that it needs to do its job.

Mr. Speaker, I want to be brief, which I guess is already too late, so I will summarize the changes and improvements that we have made to the bill. Last year, the gentleman from Massachusetts (Mr. MARKEY) and I worked on several modifications to the bill, a majority of which were incorporated into it as it passed the House. This year we have continued our dialogue and have come together on even more changes and clarifications.

First, I want to commend the gentleman from Massachusetts for his concern for rural telecommunications customers and the rates that they pay. I am pleased that we have had the opportunity to work out language that will guaranty that under section 286 of the bill, which is the pricing flexibility section, that rural customers' rates will not increase when competition forces prices to go down in one area only to be shifted to another area to make up the difference.

We have tightened the definition of what a 2 percent carrier is. There is now language in section 284 where we have installed a bulletproof fire wall to protect against possible gaming of the system when companies elect to choose tariff flexibility.

Finally, we have reworked the merger section. And I want it to be clear that the merger review language only applies to those companies that remain 2 percent companies after the acquisition of another company.

Mr. Speaker, I cannot overstate the importance of this bill for rural areas like Wyoming. I appreciate all of the help that I have had in getting it this far.

Mr. UPTON. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. KENNEDY), a supporter of the bill who represents a district that I know is fairly rural in lots of different ways.

(Mr. KENNEDY of Minnesota asked and was given permission to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of H.R. 496, the Independent Tele-

communications Enhancement Act of 2001.

H.R. 496 is good for southwest Minnesota because it helps our small and mid-sized telephone companies by reducing the regulatory burden that has been put upon them. One of my goals in Congress is to help our rural communities by improving their rural telecommunications infrastructure.

I believe that this bill, introduced by the gentlewoman from Wyoming, who says she is from the most rural State, while I profess to be from the most rural district in the country, that this will help us meet the goal by reducing government regulations on smaller phone companies and allowing them to focus their efforts instead on providing quality and competitive service to rural America instead of dealing with burdensome regulations.

By allowing companies to focus on improving our communities by deploying new services and investing in infrastructure instead of complying with burdensome regulations, more residents in southwest Minnesota and in Wyoming will have access to telecommunication services that their friends and families in bigger cities oftentimes already have.

I believe this is a step in the right direction towards closing the digital divide that we face here in America, and I also believe that by improving rural telecommunications services and infrastructure that we can make our rural areas more attractive to new and existing businesses.

I thank the chairman, I thank the gentlewoman from Wyoming for putting this forward, and I look forward to voting for it.

Mr. BARRETT of Wisconsin. Mr. Speaker, I yield back the balance of my time.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know I asked unanimous consent that all Members be able to revise and extend their remarks, but I particularly want to note and request the addition for the RECORD of the statement by the vice chairman of the subcommittee, the gentleman from Florida (Mr. STEARNS), who is chairing an important hearing on airline mergers now and was not able to come over and engage in the debate.

The other thing I would just like to point out is that my district in particular, though it is certainly not as rural as the State of Wyoming, is very much what I consider a microcosm of the country. We have good pockets of urban and rural, farms, businesses large and small, and I know that, particularly as chairman of this new subcommittee, we have two outstanding small telephone services, one in Bloomington, Michigan, in Van Buren County, and Climax Telephone Company in Kalamazoo County that will benefit from this legislation, as we will see through the rest of the country as well.

We do not need burdensome regulation imposed by anyone on small com-

panies like these that provide really the only service, whether it be high-speed digital fiber to those communities, whether cable, all of those different things. These companies are there and they are the only ones there. In fact, their prosperity will only grow because of this legislation.

I would note that last year we passed this legislation without dissent. I would think that again this year we will pass it without dissent as well. I ask all my colleagues to vote in support of this legislation.

Mr. TOWNS. Mr. Speaker, independent telephone companies have filled an important role in the development of our Nation's telecommunications system. For decades the cooperatives and family-owned businesses made sure that all Americans would have access to quality telephone service. Entrepreneurs are buying exchanges promising to deploy improved voice and data service in small communities.

Recent studies by NECA and NTIA show that small carriers like these are investing in broadband deployment. I support any legislation that would speed the deployment of advanced services, whether that's in Brooklyn, New York or Basin, Wyoming. The Digital Divide is a pressing issue in this country, not only in urban areas but rural ones as well. I do not look kindly on those who feel that the Digital Divide is not an issue in this country. Those of us who represent rural and urban areas know all too well the lack of access our constituents face. We have a responsibility to create digital opportunities for all Americans, not just those living in the big cities.

I want to voice my support for this legislation, but I do have concerns that giving carriers too much price flexibility could put consumers at a competitive disadvantage. I believe we should support small carriers as well as consumer interests. I want to be on record as promoting broadband deployment in rural areas while not jeopardizing the affordability of basic phone services.

Mr. MARKEY. Mr. Speaker, I rise in opposition to H.R. 496. Before I speak to the remaining issues of concern with the legislation that I believe must be rectified before it merits support, I want to begin by thanking Mrs. CUBIN, Mr. GORDON, Mr. DINGELL, and Chairman TAUZIN, and Chairman UPTON for being responsive to many of the concerns that have been raised about H.R. 496 since it was first introduced.

The bill being offered today contains many helpful clarifications and changes embodied in it that were in response to concerns I have raised about the measure. I believe that in its current form it clarifies a number of key definitions that affect the scope of the bill. Moreover, the bill also contains clarifications that better capture the expressed intent of its advocates without some of the possible unintended consequences that I have warned about.

The legislation now better defines which companies qualify as "2 percent carriers" so that certain Bell Operating Companies are not inadvertently included in the definition. The bill also preserves certain Commission authority necessary to protect consumers and contains adjustments in provisions dealing with the introduction of new telecommunications services, participation in subsidy pools, and the pricing flexibility section.

Again, I want to thank Mrs. CUBIN and my other colleagues who have agreed to these

changes. I believe they are helpful clarifications and I believe they improve the bill. I would note, however, that I still believe that additional changes are warranted for this legislation and that I hope can be dealt with prior to sending this bill to the President.

This legislation, Mr. Speaker, also known as the "2 percent" bill, directly affects small and mid-sized telephone companies and has repercussions for millions of consumers across the country.

A chief concern is the "trigger" for key deregulatory provisions in the bill, namely the pricing flexibility and pricing deregulation provisions. The bill on the House floor today will continue to allow pricing deregulation upon the arrival of "facilities-based" competition in a given service area. Facilities-based entry, however, is defined in the bill to include not only provision of local exchange switching or its equivalent, but also the "procurement" of such. Moreover, a facilities-based competitor is merely required to have at least one customer—I repeat, one sole customer.

Hopefully there will be more competition. The point is that although competition may arrive, it may not be robust or effective in constraining prices. A single competitor serving a single customer is simply an insufficient trigger for deregulation. Such a low threshold will mean sweeping deregulation with only the illusion of truly competitive markets in many areas of the country. I hope we can subsequently adjust this competitive trigger so that it reflects the kind of significant competition that serves to constrain prices and drive innovation, rather than the "paper tiger" competition that this definition will permit for deregulation to occur.

In addition, I am concerned about combining a lessening of reporting requirements with the continuation, and indeed, increased flexibility, of participation in subsidy pools. At a time when policymakers are struggling to extract unnecessary subsidies from the system and make remaining subsidies more explicit, this legislation would appear to make it more difficult for policymakers and regulators to discern whether the subsidies generally, or particular subsidy levels, are still justified or need to be recalibrated. Mr. Speaker, the National Association of Regulatory Utility Commissioners (NARUC) recently passed a resolution on this bill that stated in part—and I'll quote from it—that "appropriate reporting requirements that . . . verify proper distribution and use of universal service funding should continue to be available."

If these so-called 2 percent companies want to live in a truly competitive environment with less regulation than I'm all for that—I wish them well and I hope they make it in the free marketplace.

Yet this legislation still suffers from a "have-your-cake-and-eat-it-too" quality. I believe that even if we are unwilling today to lessen or cap the subsidy as we lessen 2 percent company regulations and move these companies from monopoly mindsets to greater competition, we must at least have accountability in the subsidy system so that it doesn't become even more bloated than it already is.

I believe that this Congress needs to have a broader discussion when we act to eliminate certain legacy regulations to ensure that we also act to eliminate or limit legacy subsidies.

In addition, I continued to believe that there is a potential in this bill for companies to

"game" the regulatory system. We usually do not give regulated entities the opportunity to choose their form of regulation but this bill does just that. I want to commend the bill's sponsors for adjusting the bill somewhat in this area in response to my concerns so that a company now chooses rate-or-return regulation or price cap regulation and this election must be done for 1 year. However, clarifying that such election cannot be done on any given month but rather on an annual basis does not fully alleviate the problem. Flipping back and forth on a yearly basis still permits companies to game the regulatory system in my view.

Another issue I want to highlight is the merger review section. This section states that any review involving a so-called 2 percent carrier must be approved or denied by the Commission within 60 days. I understand that the companies do not want merger reviews to drag on for years, but I would suggest that 60 days is too short and unrealistic.

While I believe the Commission is itself is streamlining its process, if the majority is insistent on having a merger review "shot clock" I would suggest giving the Commission a greater period of time.

Finally, I want to comment broadly on the overall intent of the bill and what I believe will be the unfulfilled promise that the sponsors of the bill seek to achieve. While the purpose of the bill as stated in its text, is to accelerate the deployment of advanced services in more rural areas of the country, there is no requirement that any of the savings a company garners through lessened regulatory obligations be spent or invested in deployment of new, or advanced services to rural areas. The legislation has no advanced services build-out requirement, no blueprint or timetable for deployment to rural areas for such services. It appears that the savings a company enjoys through this bill can go directly to profits and to shareholders.

As we proceed further on this bill I would encourage Members to further review suggestions made by NARUC and its membership and work again on these issues so that consumers and the public interest are fully protected.

Again, I want to thank Mrs. CUBIN for the adjustments in the bill that she has been willing to make thus far. I enjoy working with her and want to continue our discussions on this bill. I believe that working together, along with Chairman UPTON, Chairman TAUZIN, Mr. DINGELL, Mr. GORDON, Mr. BARRETT, Mr. PICKERING, Mr. LARGENT and other supporters of the bill, that we can ultimately reach a resolution with the Senate that works for everybody. In addition I want to commend and thank Mrs. CUBIN's staff, Bryan Jacobs, and the Energy and Commerce Committee Republican staff, Howard Waltzman, for their efforts in fashioning compromises in many sections of the bill.

Mr. BEREUTER. Mr. Speaker, today this Member received a letter from the chief executive officer of one of the many rural telephone companies in Nebraska. Great Plains Communications is based in Blair, Nebraska.

Great Plains serves 33,600 lines across 13,600 square miles of rural Nebraska. The company's service area includes 76 communities and 63 exchanges. That amounts to about two and one-half customers per square mile. Fifty of those exchanges have 6 or fewer

customers per square mile and 20 of the exchanges have 2 or fewer subscribers per square mile.

At a recent telecommunications conference at Creighton University in Omaha, Great Plains CEO Mick Jensen noted that most rural telephone companies are experiencing flat growth, that flat growth makes investment difficult, that costs continue to rise, and that these rural telephone companies lack economies of scale and are serving many customers with limited income.

Across the United States more than 1,000 small, local telephone companies are facing similar problems as they work to provide good service to rural residents. These telephone companies have more limited financial resources and relatively higher expenses than large telephone companies. Yet, these small companies must function under FCC regulations intended for large carriers.

Mr. Speaker, the Independent Telecommunications Consumer Enhancement Act will help to end "one-size-fits-all" regulation of small and rural telecommunications carriers. It will protect these carriers and their customers from unfair and unnecessary regulatory burdens. And, in doing so, it will free resources that can be used to provide advanced telecommunications services to residents of rural areas.

Mr. UPTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and pass the bill, H.R. 496, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF MEMBERS TO BOARD OF TRUSTEES OF JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The SPEAKER pro tempore. Without objection, and pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), the Chair announces the Speaker's appointment of the following Members of the House to the Board of Trustees of the John F. Kennedy Center for the Performing Arts:

Mr. HASTERT of Illinois;
Mr. KOLBE of Arizona; and
Mr. GEPHARDT of Missouri.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today, and then on the Speaker's approval of the Journal.

Votes will be taken in the following order: