

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 766
HOUSE BILL 988

1 AN ACT TO GRANT JURISDICTION TO THE NORTH CAROLINA UTILITIES
2 COMMISSION AS IT RELATES TO RADIO COMMON CARRIERS.

3
4 The General Assembly of North Carolina do enact:

5
6 **Section 1.** Chapter 62 of the North Carolina General Statutes is hereby amended by
7 adding thereto a new Article, to be appropriately numbered, and to read as follows:

8 ARTICLE _____

9 RADIO COMMON CARRIERS

10 1. The North Carolina Utilities Commission shall exercise over and in relation to radio
11 common carriers the powers conferred by this Article.

12 (a) The word "commission" when used in this Article means the North Carolina
13 Utilities Commission.

14 (b) The word "Commissioners" when used in this Article means the
15 Commissioners of the North Carolina Utilities Commission.

16 (c) The term "radio common carriers" when used in this Article includes every
17 corporation, company, association, partnership and persons and lessees,
18 trustees, or receivers, appointed by any court whatsoever owning, operating
19 or managing a radio common carrier engaged in the business of providing a
20 service of one way or two way radio communications and licensed as a
21 miscellaneous common carrier by the Federal Communications Commission,
22 but not engaged in the business of providing a public land line message
23 telephone service or a public message telegraph service. The terms
24 "telephone or telegraph utilities", "telephone or telegraph company", or a
25 "person operating telegraph or telephone lines" when used in this Chapter,
26 shall not be construed as including radio common carriers.

27 2. No radio common carrier shall begin, or continue, the construction or operation of
28 any radio system, or any extension thereof, or acquire ownership or control thereof either
29 directly or indirectly without first obtaining from the public utilities commission a certificate
30 that the present or future public convenience and necessity requires or will require such
31 construction, operation or acquisition; provided this Article shall not require, nor shall it be so
32 construed as to require, any such carrier to secure a certificate for an extension within any
33 authorized service area within which such person has heretofore lawfully commenced
34 operations, or for any extension within or to territory already served by such carrier, necessary
35 in the ordinary course of business, or for substitute facilities within or to any authorized service
36 area or territory already served by such carrier, or for any extension into territory contiguous to
37 that already served by such carrier and not receiving similar service from another such carrier
38 when no certificate of convenience and necessity has been issued to or applied for by any other
39 radio common carrier, or for the acquisition and operation of any plant or system heretofore
40 constructed or hereafter constructed under authority of a certificate of convenience and
41 necessity hereafter issued. The Commissioners are hereby authorized to prescribe appropriate
42 and reasonable rules and regulations governing the issuance of such certificates.

3. Any person not presently franchised or certificated by the North Carolina Utilities Commission as a radio common carrier but engaged in the operation of any radio common carrier licensed by the Federal Communications Commission on the effective date of this Article shall receive a certificate of convenience and necessity from the North Carolina Utilities Commission authorizing such person to continue the operation of such radio common carrier in the territory professed to be served by such person on the effective date of this Article, if, within thirty (30) days after this Article becomes effective, such person shall file with the Commission an application for such certificate, including copies of any license or licenses issued by the Federal Communications Commission to such person, showing the area professed to be served by such person.

3 1/2. The commission shall have the power and authority to set and regulate rates charged to the public by Radio Common Carriers.

4. The Commission shall not grant a certificate for a proposed radio common carrier operation or extension thereof into the established service area which will be in competition with or duplication of any other radio common carrier unless it shall first determine that the existing service is inadequate to meet the reasonable needs of the public and that the person operating the same is unable to or refuses or neglects after hearing on reasonable notice to provide reasonably adequate service.

5. The provisions of this Article relate only to "radio common carriers" as defined herein and are distinguishable from mobile radio telephone service offered by land line telephone or telegraph utilities regulated by the Commission.

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1969.