

## HOUSE BILL NO. HB0067

Telecommunications.

Sponsored by: Joint Corporations, Elections and Political  
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to telecommunications; recognizing  
2 competition from alternate providers; requiring  
3 certificates of public convenience and necessity for all  
4 telecommunications providers; repealing cost based pricing;  
5 providing for downward pricing flexibility for  
6 telecommunications services; providing a limitation on  
7 increasing prices for essential telecommunications  
8 services; limiting annual reports by the public service  
9 commission; repealing anachronistic provisions; eliminating  
10 mandatory quality of service studies; and providing for an  
11 effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

15 **Section 1.** W.S. 37-15-101, 37-15-103(a)(iv)(intro),  
16 (B), (C) and (xvi)(A)(V), 37-15-104(a)(ii) and (ix),

1 37-15-201(a) and (b), 37-15-202(a)(intro), (i) and (ii),  
2 37-15-203(a) and by creating new subsections (e) through  
3 (h), 37-15-204(a), 37-15-401(a) by creating a new paragraph  
4 (vii), 37-15-403(a), 37-15-404(a)(i), 37-15-405,  
5 37-15-406(b), 37-15-407(a)(intro), 37-15-408, 37-15-501(a)  
6 and (b) and 37-15-502(a)(intro) and (iv) are amended to  
7 read:

8

9 **37-15-101. Short title.**

10

11 This chapter shall be known as the "Wyoming  
12 Telecommunications Act." ~~of 1995.~~

13

14 **37-15-103. Definitions.**

15

16 (a) As used in this chapter:

17

18 (iv) "Essential telecommunications service"  
19 means a customer's access to service that is necessary for  
20 the origination or termination, or both, of two-way,  
21 switched telecommunications for both residential voice  
22 grade and business voice grade service within a local  
23 exchange area. Essential telecommunications services are  
24 limited to:

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(B) Single line flat-rate or single line measured residence or business voice grade service;

(C) Transmission service and facilities necessary for the connection between the end user's or customer's premises ~~or location~~ and ~~the~~ local network switching facility including the necessary signaling service used by customers to access essential telecommunications services;

(xvi) "Supported services" means the services or functionalities which shall be supported by the state universal service fund pursuant to W.S. 37-15-502, as described in subparagraphs (A) and (B) of this paragraph:

(A) The services designated for support are:

(V) Access to emergency services. "Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing

1 the three-digit code "911," to call emergency services  
 2 through a public ~~service access~~ safety answering point  
 3 operated by the local government. "Enhanced 911" is  
 4 defined as 911 service that includes the ability to provide  
 5 automatic numbering information, which enables the public  
 6 ~~service access~~ safety answering point to call back if the  
 7 call is disconnected, and automatic location information,  
 8 which permits emergency service providers to identify the  
 9 geographic location of the calling party. "Access to  
 10 emergency services" includes access to 911 and enhanced 911  
 11 services in accordance with applicable governing authority;

12

13 **37-15-104. Services not regulated by this title.**

14

15 (a) Except for contributions to the universal service  
 16 fund required pursuant to W.S. 37-15-501 and the assessment  
 17 levied pursuant to W.S. 37-2-106 through 37-2-109,  
 18 telecommunications service does not include, and the  
 19 provisions of this title do not apply to:

20

21 (ii) ~~Except as provided in this paragraph,~~ Home  
 22 and business and coinless, or coin operated public or  
 23 semipublic telephone terminal equipment, and the use,  
 24 location and charges for the use of such equipment; i. ~~The~~

1 ~~commission may regulate the location of and charges for~~  
2 ~~coinless or coin operated public or semipublic telephone~~  
3 ~~terminal equipment in areas of the state which the~~  
4 ~~commission finds are not subject to competition for such~~  
5 ~~equipment;~~

6  
7 (ix) Nonvoice data services; ~~not operated by a~~  
8 ~~company providing local exchange service;~~

9  
10 **37-15-201. Regulation of local exchange services;**  
11 **certificates of public convenience and necessity;**  
12 **concurrent certificates.**

13  
14 (a) ~~Except for those telecommunications companies~~  
15 ~~that as of January 1, 1995, have a valid certificate of~~  
16 ~~public convenience and necessity previously issued by the~~  
17 ~~commission to provide local exchange services in the state,~~

18 All telecommunications companies seeking to offer and  
19 provide local exchange service shall obtain a certificate  
20 of public convenience and necessity from the commission  
21 prior to providing that service in this state.

22  
23 (b) The commission shall grant a concurrent  
24 certificate or certificates of public convenience and

1 necessity to provide local exchange service ~~in the service~~  
2 ~~territory of a local exchange company with more than thirty~~  
3 ~~thousand (30,000) access lines in the state~~ if it finds,  
4 after notice and opportunity for hearing, that the  
5 applicant possesses sufficient technical, financial and  
6 managerial resources to provide safe, adequate and reliable  
7 local exchange services within the identified geographic  
8 area.

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10 **37-15-202. Determination of competitive services.**

11

12 (a) Upon petition by any telecommunications company,  
13 the commission may, after notice and opportunity for  
14 hearing, find and conclude that a telecommunications  
15 service in the relevant market is subject to competition.  
16 Any service found to be effectively competitive shall not  
17 be subject to regulation of prices by the commission. The  
18 commission shall consider only the following factors in  
19 determining whether a telecommunications service in the  
20 relevant market is subject to effective competition:

21

22 (i) The extent to which ~~the same or equivalent~~  
23 telecommunications services are available from alternative  
24 providers including, but not limited to, wireless providers

1 who provide at least one thousand (1,000) anytime minutes  
2 per customer per month, cable providers offering voice  
3 services, voice over internet protocol or any other  
4 providers utilizing telephone numbers to provide voice  
5 services in the relevant market;

6  
7 (ii) The extent to which telecommunications  
8 services of alternative providers are functionally  
9 equivalent ~~or~~ and may be substituted at reasonably  
10 comparable prices, terms and conditions for the same  
11 service or in combination with other services;

12  
13 **37-15-203. Price regulation of noncompetitive**  
14 **services.**

15  
16 (a) Prices for telecommunications services which have  
17 not been determined by the legislature or the commission to  
18 be competitive telecommunications services shall be  
19 regulated by the commission in accordance with this  
20 section. The prices for noncompetitive telecommunications  
21 services of any local exchange company may be adjusted  
22 downward at the company's discretion. Except as provided  
23 in subsections (e) and (f) of this section, prices for  
24 noncompetitive telecommunications services shall be subject

1 to a maximum determined by the commission. The initial  
2 maximum shall be the local exchange company's price of  
3 noncompetitive telecommunications services as of July 1,  
4 2006. A local exchange carrier may increase its price to  
5 the level of the maximum set under this subsection without  
6 approval of the commission as required under subsections  
7 (f) and (g) of this section.

8  
9 (e) A local exchange company may seek approval to  
10 make revenue neutral adjustments to the price of essential  
11 telecommunications service to reduce or eliminate  
12 differences in the price of essential telecommunications  
13 service in different portions of its service area.

14  
15 (f) A local exchange company may seek approval to  
16 increase the price of essential telecommunications service  
17 based on:

18  
19 (i) Changes in the local calling area as  
20 approved by the commission;

21  
22 (ii) Changes in access charges as approved by  
23 the commission; or

24



1           (iii) Other changes affecting essential  
2 telecommunications service.

3  
4           (g) Except as provided in subsection (a) of this  
5 section, any requested price change under subsections (a)  
6 through (f) of this section, including revenue neutral  
7 changes, that may result in an increase in the price of  
8 essential telecommunications services is subject to review  
9 and determination by the commission, after notice and  
10 opportunity for hearing.

11  
12           (h) The prices of any local exchange company may  
13 contain provisions for incentives for improvement of the  
14 company's performance or efficiency, lowering of operating  
15 costs, control of expenses or improvement and upgrading or  
16 modernization of its services or facilities. Any local  
17 exchange company may apply to the commission for incentives  
18 and innovative or nontraditional price regulation,  
19 including price indexing. The commission shall issue a  
20 final order approving, modifying or rejecting any  
21 application made under this subsection within one hundred  
22 eighty (180) days of the filing date of the application  
23 with the commission. If no order is issued by the  
24 commission within the one hundred eighty (180) day period,

1 the application shall be deemed approved as filed. If  
2 during consideration of an application for regulation under  
3 this subsection, the commission materially alters the plan  
4 as filed in the application, the applying local exchange  
5 company may notify the commission in writing, at any time,  
6 but not later than sixty (60) days after any final  
7 commission order on the application, that it elects not to  
8 be price regulated as approved by the order. The local  
9 exchange company's prices shall then be regulated as they  
10 were prior to the application until such time as a new  
11 application is filed, approved and accepted.

12

13 **37-15-204. Price schedules filed with the commission.**

14

15 (a) ~~A local exchange company~~ All telecommunications  
16 companies shall file with the commission, in such form and  
17 detail as the commission may require, schedules showing all  
18 ~~competitive and~~ noncompetitive telecommunications services  
19 terms, conditions and prices, ~~including prices set by~~  
20 ~~contract,~~ currently in effect and charged to customers by  
21 the company in this state. ~~All prices for new~~  
22 ~~noncompetitive telecommunications services, and any change~~  
23 ~~in prices for noncompetitive telecommunications services,~~  
24 ~~shall be filed thirty (30) days prior to the proposed~~

1 ~~effective date unless a shorter filing period is authorized~~  
2 ~~by the commission. No price increase for a noncompetitive~~  
3 ~~service shall be effective unless the customer has been~~  
4 ~~given notice by the provider at least one (1) full billing~~  
5 ~~cycle prior to the proposed increase. All price changes~~  
6 ~~for competitive services shall be effective as provided for~~  
7 ~~in the company's price schedule. No price or price change~~  
8 ~~is effective until filed in accordance with this section.~~  
9 ~~Prices charged for competitive services shall be in~~  
10 ~~accordance with its price schedule unless a separate~~  
11 ~~contract is negotiated. For purposes of this subsection,~~  
12 ~~the rules, regulations, policies, practices and other~~  
13 ~~requirements relating to services shall be filed with the~~  
14 ~~commission in such form and detail as the commission may~~  
15 ~~require. Rules, regulations, policies, practices and other~~  
16 ~~requirements relating to competitive services shall be~~  
17 ~~subject to the same requirements under this chapter as the~~  
18 ~~prices of competitive services. Those relating to~~  
19 ~~noncompetitive services shall be subject to the same~~  
20 ~~requirements under this chapter as the prices of~~  
21 ~~noncompetitive services~~ Prices for generally offered  
22 competitive services shall be publicly available on a  
23 company's website through the internet, the world wide web  
24 or a similar proprietary or common carrier, or provided to

1 the commission. All price changes for noncompetitive  
2 services shall be filed on or before the effective date of  
3 the change, as provided in the company's price schedule.  
4 Price schedules may be filed in electronic format at the  
5 option of the company.

6

7 **37-15-401. Commission powers.**

8

9 (a) In addition to the powers exercised pursuant to  
10 the provisions of W.S. 37-15-408, the commission has the  
11 power to:

12

13 (vii) Exercise authority as delegated under the  
14 Federal Communications Act of 1934, as amended.

15

16 **37-15-403. Cross-subsidies prohibited; enforcement.**

17

18 (a) No telecommunications company shall use revenues  
19 earned from or allocate expenses to noncompetitive  
20 telecommunications services to subsidize competitive  
21 telecommunications services. ~~determined by the commission~~  
22 ~~to be subject to competition.~~ The commission shall not  
23 require revenues or expenses from competitive  
24 telecommunications services to be attributed to

1 noncompetitive telecommunications services. Revenues  
2 obtained from noncompetitive telecommunications services  
3 may not be used to subsidize competitive telecommunications  
4 services. Revenues from competitive telecommunications  
5 services may not be used to subsidize noncompetitive  
6 telecommunications services. Nothing in this subsection  
7 shall affect the assignment of any revenues received from  
8 the universal service fund for the exclusive support of  
9 high cost, local exchange services.

10

11 **37-15-404. Protection of telecommunications**  
12 **consumers.**

13

14 (a) No telecommunications company shall unreasonably  
15 discriminate as to customers in prices, terms or conditions  
16 of service, or in connection to or with other  
17 telecommunications companies. Nothing in this chapter  
18 shall be construed to prohibit any telecommunications  
19 company from:

20

21 (i) Providing volume or other price discounts  
22 based on reasonable, nonpredatory business practices,  
23 including introducing promotional offerings, special  
24 incentives, competitive discounts and price waivers;

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2           **37-15-405. Complaint against prices.**

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4 Any person, and the commission on its own motion, may  
5 complain to the commission concerning the reasonableness of  
6 the price of any noncompetitive telecommunications service.  
7 Any notice and hearing of any complaint shall be in  
8 accordance with the Wyoming Administrative Procedure Act  
9 and this chapter. The commission shall only set aside any  
10 price it finds after notice and hearing to be unreasonable  
11 or unreasonably discriminatory. If the commission sets  
12 aside a price as unreasonable or unreasonably  
13 discriminatory, the telecommunications company shall have  
14 sixty (60) days to file a new price which is reasonable.  
15 The company shall refund any charges found to be  
16 unreasonable as ordered by the commission. ~~Any price set  
17 in compliance with the provisions of W.S. 37-15-402 is  
18 presumed to be fair and reasonable, subject to rebuttal by  
19 the commission or any party to the hearing.~~

20

21           **37-15-406. Quality of service.**

22

23           (b) Any customer, and the commission on its own  
24 motion, may complain concerning the quality of service

1 provided by a telecommunications company. A complaint shall  
2 be noticed and heard as provided for in the Wyoming  
3 Administrative Procedure Act. The commission, after notice  
4 and hearing, may direct the telecommunications company to  
5 take whatever remedial action is technically feasible and  
6 economically reasonable to provide reasonably adequate  
7 service. The commission shall authorize a  
8 telecommunications provider to recover the cost of  
9 compliance ~~with~~ as determined by any commission order under  
10 this section.

11

12 **37-15-407. Annual report.**

13

14 (a) The commission shall with the input and  
15 participation of the telecommunications industry and other  
16 relevant state departments, boards and agencies prepare and  
17 issue an annual report on the status of the  
18 telecommunications industry. ~~and Wyoming regulation thereof~~  
19 ~~on January 10 of each year beginning in 1996.~~ Such report  
20 shall be based on information provided to the commission  
21 and shall include:

22

23 **37-15-408. Applicability of existing law.**

24

1 W.S. ~~37-1-104 through 37-1-106,~~ 37-2-102, 37-2-104,  
 2 37-2-106 through 37-2-109, 37-2-113, 37-2-115 through  
 3 37-2-118, 37-2-124, 37-2-125, 37-2-130, 37-2-203,  
 4 37-2-205(a), 37-2-209, 37-2-214 through 37-2-216, 37-2-218,  
 5 37-2-301 through 37-2-306, 37-3-114, 37-4-101 through  
 6 37-4-104, 37-12-120 through 37-12-130, 37-12-201,  
 7 37-12-202, 37-12-204 through ~~37-12-209, 37-12-211 through~~  
 8 37-12-213, 37-12-301 through 37-12-304 and 37-13-101  
 9 through 37-13-137, inclusive, unless in conflict with other  
 10 provisions of this chapter, are applicable to  
 11 telecommunications companies and telecommunication  
 12 companies shall be considered public utilities for the  
 13 purposes of those provisions. ~~For purposes of this chapter~~  
 14 ~~W.S. 37-3-106(b) and (c) shall apply to telecommunications~~  
 15 ~~companies which are rate of return regulated.~~

16

17 **37-15-501. Universal service fund created;**  
 18 **contributions; administration.**

19

20 (a) There is hereby established the universal service  
 21 fund to be administered in accordance with this section.  
 22 The fund shall be administered by the commission. All  
 23 telecommunications companies and companies drawing from the  
 24 universal service fund shall contribute to the universal



1 service fund. The dates for contributions to the fund and  
2 disbursements from the fund shall be set by the commission,  
3 after notice and opportunity for hearing, as necessary to  
4 accomplish the objectives of the fund as specified in  
5 subsections (c) and (d) of this section. The costs of  
6 administering the fund may be included in determining  
7 required contributions.

8  
9 (b) The commission shall after notice and opportunity  
10 for hearing, designate the method by which the  
11 contributions shall be calculated, collected and  
12 distributed. ~~in order to achieve the goals set forth in~~  
13 ~~W.S. 37-15-102.~~ The commission shall authorize an  
14 additional monthly charge to customers, in the amount  
15 specified by the commission, to recover each contributor's  
16 required payment to the universal service fund. Any charge  
17 related to mobile telecommunications service shall only  
18 apply if the customer's place of primary use is in this  
19 state as provided by the Mobile Telecommunications Sourcing  
20 Act, 4 U.S.C. §§ 116 to 126. The provisions of the Mobile  
21 Telecommunications Sourcing Act shall apply to this  
22 subsection.

23

1           **37-15-502. Universal service fund eligibility and**  
2 **distribution to carriers.**

3  
4           (a) Telecommunications companies which use wireline,  
5 cellular, radio spectrum, ~~or other~~ wireless or other  
6 technology to provide supported services to customers who  
7 are otherwise eligible to receive universal service support  
8 pursuant to W.S. 37-15-501, may establish eligibility to  
9 receive universal service fund distributions in an amount  
10 to be determined by the commission, provided that:

11  
12           (iv) The company and services meet such  
13 additional criteria, if any, the commission, after notice  
14 and opportunity for hearing, determines are necessary. ~~to~~  
15 ~~further the stated intent of W.S. 37-15-102.~~ During its  
16 consideration and determination, the commission shall  
17 consider technological and competitive neutrality. ~~The~~  
18 ~~commission shall adopt rules setting forth any such~~  
19 ~~criteria on or before December 31, 2001.~~

20  
21           **Section 2.** W.S. 37-15-102, 37-15-103(a)(i), (vi) and  
22 (b), 37-15-201(c) through (h), 37-15-203(b) through (d),  
23 37-15-204(b) and (c), 37-15-301(e), 37-15-402,

1 37-15-406(a), 37-15-407(a)(i) through (iv), 37-15-410 and  
2 37-15-411 are repealed.

3

4 **Section 3.** This act is effective July 1, 2006.

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6

(END)