

ENROLLED ACT NO. 54, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING  
2007 GENERAL SESSION

AN ACT relating to telecommunications; providing restrictions on political subdivisions entering exclusive telecommunications services contracts; providing exceptions; providing for a complaint process; and providing for an effective date.

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

**Section 1.** W.S. 37-15-413 is created to read:

**37-15-413. Limitation on authority of political subdivision to enter exclusive agreement for provision of telecommunications service.**

(a) Except as provided in subsections (b) through (d) of this section, before the governing body of any city or town or other political subdivision of this state shall provide for the construction, maintenance or operation of any telecommunications service by entering into an exclusive franchise, partnership, joint venture, contract, resale agreement or any other exclusive agreement with any party regarding telecommunications service, the city, town or other political subdivision shall:

(i) Determine, after notice and opportunity for a public hearing, that no private provider of telecommunications services is currently providing substantially the same or similar service anywhere within the boundaries of the city, town or political subdivision;

(ii) Have submitted a written request to all private providers of telecommunications services within the boundaries of the city, town or political subdivision for provision of the same quality and grade of telecommunications service within the same time frame and

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at the same consumer prices proposed under the exclusive contract;

(iii) Determine, after notice and opportunity for a public hearing that the private telecommunications service providers have not agreed within ninety (90) days of the receipt of the request submitted pursuant to paragraph (ii) of this subsection to provide the same quality and grade of service within the same time frame and at the same consumer prices as proposed under the exclusive contract, or if the provider has agreed, that the provider has not commenced providing or constructing facilities to provide the service in the manner agreed upon; and

(iv) Limit the term of any exclusive agreement under this section to not more than six (6) years.

(b) The governing body of a city or town or other political subdivision shall allow the nondiscriminatory, nonexclusive and competitively neutral use of its rights-of-way including its poles, conduits, ducts or similar support structures by any telecommunications company and nothing in this section shall be construed to the contrary.

(c) Nothing in this section shall restrict the governing body of a city or town, or other political subdivision, from providing a telecommunications service or facility:

- (i) For its own use;
- (ii) For 911, E-911 or other emergency services;
- (iii) For medical or educational purposes; or
- (iv) To students by an educational institution.

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(d) Nothing in this section shall be construed to restrict the governing body of a city or town or other political subdivision, from providing a telecommunications service to a party within the geographic area in which the city, town or political subdivision operates as a telecommunications utility. Any city, town or political subdivision providing a telecommunications service under this subsection shall:

(i) Provide the telecommunications service on a nondiscriminatory, nonexclusive and competitively neutral basis; and

(ii) Provide the telecommunications service at a price which covers cost, including imputed costs that the city, town or political subdivision would incur if it were a for-profit telecommunications company.

(e) Any person may complain to the commission, and the commission may on its own motion initiate an investigation, concerning any alleged violation of this section by a city, town or political subdivision, subject to the following:

(i) If the commission finds that a city, town or political subdivision has violated this section, or finds that any rule, action or order of a city, town or political subdivision is anticompetitive or otherwise violates this section, the commission shall notify the city, town or political subdivision of the violation. The city, town or political subdivision shall cure the anticompetitive behavior within ninety (90) days following mailing of notice by the commission; and

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(ii) If the city, town or political subdivision does not cure the anticompetitive behavior within ninety (90) days, the commission shall commence a contested case hearing on the complaint, governed by the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq. If, following the hearing, the commission finds that the city, town or political subdivision has violated this section, the commission shall prohibit the city, town or political subdivision from providing any telecommunications service until the violation of this section is remedied.

(f) This section does not apply to any contract entered into prior to July 1, 2007.

**Section 2.** This act is effective July 1, 2007.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk