

SENATE FILE NO. SF0078

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; providing
10 for hearings on unreasonable or discriminatory competitive,
11 wholesale and switched access pricing; eliminating
12 mandatory quality of service studies; and providing for an
13 effective date.

14

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

16

1 **Section 1.** W.S. 37-15-101, 37-15-103(a)(iv)(B), (C)
2 and (xvi)(A)(V), 37-15-104(a)(ii), 37-15-201(a) and (b),
3 37-15-202(a)(i), (ii) and (c), 37-15-203(a) and by creating
4 new subsections (e) through (j), 37-15-204(a),
5 37-15-401(a)(v), (vi) and by creating a new paragraph
6 (vii), 37-15-404(a)(i), 37-15-405, 37-15-406(b),
7 37-15-407(a)(intro), 37-15-408, 37-15-501(b) and (d) and
8 37-15-502(a)(iv) are amended to read:

9
10 **37-15-101. Short title.**

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

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

16
17 (a) As used in this chapter:

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

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

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(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.~~ i. ~~The~~

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

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

(a) Except for those telecommunications companies that as of ~~January 1, 1995~~ July 1, 2007, have a valid certificate of public convenience and necessity previously issued by the commission to provide local exchange services in the state, all telecommunications companies seeking to offer and provide local exchange service shall obtain a certificate of public convenience and necessity from the commission prior to providing that service in this state.

(b) The commission shall grant a ~~concurrent~~ certificate or certificates of public convenience and necessity to provide local exchange service ~~in the service territory of a local exchange company with more than thirty thousand (30,000) access lines in the state~~ if it finds,

1 after notice and opportunity for hearing, that the
2 applicant possesses sufficient technical, financial and
3 managerial resources to provide safe, adequate and reliable
4 local exchange services within the identified geographic
5 area.

6
7 **37-15-202. Determination of competitive services.**

8
9 (a) Upon petition by any telecommunications company,
10 the commission may, after notice and opportunity for
11 hearing, find and conclude that a telecommunications
12 service is subject to competition. Any service found to be
13 effectively competitive shall not be subject to regulation
14 of prices by the commission. The commission shall consider
15 only the following factors in determining whether a
16 telecommunications service is subject to effective
17 competition:

18
19 (i) The extent to which ~~the same or equivalent~~
20 telecommunications services are available from alternative
21 providers including, but not limited to, wireless providers
22 who provide at least one thousand (1,000) anytime minutes
23 per customer per month, cable providers offering voice
24 services, voice over internet protocol or any other

1 providers utilizing telephone numbers to provide voice
2 services in the relevant market;

3
4 (ii) The extent to which telecommunications
5 services of alternative providers are functionally
6 equivalent, for equivalent service or in combination with
7 other services, and may be substituted at reasonably
8 comparable prices, terms and conditions;

9
10 (c) Local exchange services provided by resale,
11 telecommunications services provided by interexchange
12 telecommunications companies, telecommunications service
13 provided by new entrants to a relevant market that are not
14 an affiliated telecommunications company with the incumbent
15 provider and telecommunications services other than local
16 exchange service, switched access and interexchange
17 telecommunications services provided by a local exchange
18 company shall be considered subject to competition for
19 purpose of regulation under this title.

20
21 **37-15-203. Price regulation of essential services.**

22
23 (a) Prices for telecommunications services which have
24 ~~not~~ been determined by the legislature or the commission to

1 be ~~competitive~~ essential telecommunications services shall
2 be regulated by the commission in accordance with this
3 section. The prices for essential telecommunications
4 services of any local exchange company may be adjusted
5 downward at the company's discretion. Except as provided
6 in subsections (e) and (f) of this section, prices for
7 essential telecommunications services shall be subject to a
8 maximum determined by the commission. The initial maximum
9 shall be the local exchange company's price of essential
10 telecommunications services as of July 1, 2006. A local
11 exchange carrier may increase its price for essential
12 telecommunications services to the level of the maximum set
13 under this subsection without approval of the commission as
14 required under subsections (f) and (g) of this section.

15

16 (e) A local exchange company may seek approval to
17 make revenue neutral adjustments, considering only revenue
18 from noncompetitive essential telecommunications services,
19 to the price of essential telecommunications services to
20 reduce or eliminate differences in the price of essential
21 telecommunications services in different portions of its
22 service area.

23

1 (f) A local exchange company may seek approval to
2 increase the price of noncompetitive essential
3 telecommunications services based on:

4
5 (i) Changes in the local calling area as
6 approved by the commission;

7
8 (ii) Changes in access charges as approved by
9 the commission;

10
11 (iii) Other changes affecting essential
12 telecommunications services; or

13
14 (iv) Increases in the cost of providing
15 telecommunications services. The increases shall be judged
16 on the inflation rate of the costs of providing
17 telecommunications services generally unless the applicant
18 demonstrates that specific cost increases are
19 disproportionably affecting the cost of providing their
20 noncompetitive essential services.

21
22 (g) Any requested price change under subsections (b)
23 through (f) of this section, including revenue neutral
24 changes, that may result in an increase in the price of

1 essential telecommunications services is subject to review
2 and determination by the commission, after notice and
3 opportunity for hearing.

4
5 (h) The prices of any local exchange company may
6 contain provisions for incentives for improvement of the
7 company's performance or efficiency, lowering of operating
8 costs, control of expenses or improvement and upgrading or
9 modernization of its services or facilities. Any local
10 exchange company may apply to the commission for incentives
11 and innovative or nontraditional price regulation,
12 including price indexing. The commission shall issue a
13 final order approving, modifying or rejecting any
14 application made under this subsection within one hundred
15 eighty (180) days of the filing date of the application
16 with the commission. If no order is issued by the
17 commission within the one hundred eighty (180) day period,
18 the application shall be deemed approved as filed. If
19 during consideration of an application for regulation under
20 this subsection, the commission materially alters the plan
21 as filed in the application, the applying local exchange
22 company may notify the commission in writing, at any time,
23 but not later than sixty (60) days after any final
24 commission order on the application, that it elects not to

1 be price regulated as approved by the order. The local
2 exchange company's prices shall then be regulated as they
3 were prior to the application until such time as a new
4 application is filed, approved and accepted.

5
6 (j) Unless as otherwise directed under federal law,
7 noncompetitive switched access shall not be priced above
8 three cents (\$.03) per minute after January 1, 2010.
9 Prices for noncompetitive switched access which exceed
10 three cents (\$.03) per originating and terminating minute
11 shall be reduced to three cents (\$.03) per minute on or
12 before January 1, 2010. Any telecommunications company
13 which must reduce noncompetitive switched access prices
14 under this subsection shall, on or before January 1, 2010,
15 submit a proposed plan to the commission, identifying the
16 amount of intrastate switched access revenues and access
17 lines in the years until the date of filing, to reduce
18 switched access prices in annual increments to meet the
19 requirements of this subsection, and a request for
20 corresponding annual revenue neutral incremental increases
21 to essential service prices to offset the anticipated loss
22 in revenue from a reduction in switched access prices. The
23 commission may investigate to its satisfaction the proposal
24 and the facts set forth in the proposed plan. The

telecommunications company shall satisfy any requests for information by the commission, and shall modify the plan as necessary to conform to the facts the commission finds after investigation to be accurate. Once the commission is satisfied with and approves the proposed plan, the noncompetitive switched access and essential service prices proposed in the plan shall go into effect after compliance with W.S. 37-15-204.

37-15-204. Price schedules.

(a) A local exchange company shall file with the commission, in such form and detail as the commission may require, schedules showing all ~~competitive and~~ noncompetitive telecommunications services terms, conditions and prices, ~~including prices set by contract,~~ currently in effect and charged to customers by the company in this state. All prices for new noncompetitive telecommunications services, and any ~~change~~ increase in prices for noncompetitive telecommunications services as authorized by the commission pursuant to W.S. 37-15-203, shall be filed thirty (30) days prior to the proposed effective date. ~~unless a shorter filing period is authorized by the commission.~~ No price increase for a

1 noncompetitive service shall be effective unless the
2 customer has been given notice by the provider at least one
3 (1) full billing cycle prior to the proposed increase and
4 the increase has been approved by the commission as
5 required by W.S. 37-15-203. ~~All price changes for~~
6 ~~competitive services shall be effective as provided for in~~
7 ~~the company's price schedule.~~ No price or price change is
8 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. Prices for generally offered
12 competitive services shall be publicly available on a
13 company's website through the internet, the world wide web
14 or a similar proprietary or common carrier or provided to
15 the commission. Price schedules may be filed in electronic
16 format at the option of the company. For purposes of this
17 subsection, the rules, regulations, policies, practices and
18 other requirements relating to services shall be filed with
19 the commission in such form and detail as the commission
20 may require. Rules, regulations, policies, practices and
21 other requirements relating to competitive services shall
22 be subject to the same requirements under this chapter as
23 the prices of competitive services. Those relating to
24 noncompetitive services shall be subject to the same

1 requirements under this chapter as the prices of
2 noncompetitive services.

3

4 **37-15-401. Commission powers.**

5

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

9

10 (v) Hold hearings on complaints, or for good
11 cause, upon notice and subject to the provisions of the
12 Wyoming Administrative Procedure Act;~~and~~

13

14 (vi) Regulate telecommunications companies only
15 as provided for in this chapter;~~and~~ and

16

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

19

20 **37-15-404. Protection of telecommunications**
21 **consumers.**

22

23 (a) No telecommunications company shall unreasonably
24 discriminate as to customers in prices, terms or conditions

1 of service, or in connection to or with other
2 telecommunications companies. Nothing in this chapter
3 shall be construed to prohibit any telecommunications
4 company from:

5
6 (i) Providing volume or other price discounts
7 based on reasonable, nonpredatory business practices,
8 including introductory promotional offerings, special
9 incentives, competitive discounts and price waivers;

10
11 **37-15-405. Complaint against prices.**

12
13 (a) Any person, and the commission on its own motion,
14 may complain to the commission concerning the
15 reasonableness of the price of any noncompetitive
16 telecommunications service. Any notice and hearing of any
17 complaint shall be in accordance with the Wyoming
18 Administrative Procedure Act and this chapter. The
19 commission shall only set aside any price it finds after
20 notice and hearing to be unreasonable or unreasonably
21 discriminatory. If the commission sets aside a price as
22 unreasonable or unreasonably discriminatory, the
23 telecommunications company shall have sixty (60) days to
24 file a new price which is reasonable. The company shall

1 refund any charges found to be unreasonable as ordered by
2 the commission. ~~Any price set in compliance with the~~
3 ~~provisions of W.S. 37-15-402 is presumed to be fair and~~
4 ~~reasonable, subject to rebuttal by the commission or any~~
5 ~~party to the hearing.~~ Rates or prices for noncompetitive
6 essential services in effect as of July 1, 2006, are deemed
7 to be fair and reasonable. The reasonableness of prices
8 subject to the complaint shall be evaluated with
9 consideration of whether the prices complained of are below
10 an appropriate measure of a potential competitor's prices
11 and whether a competitor has a reasonable prospect of
12 recouping its investment in below-cost prices. The
13 complaint shall specify facts demonstrating the manner in
14 which the price that is the subject of the complaint is
15 significantly inconsistent with the prices for the same or
16 similar services of any telecommunications company
17 including competitive local exchange carriers, cable
18 providers, wireless providers and any other provider
19 including providers using internet protocol transmission
20 providing services in similar markets.

21

22 (b) Any person, and the commission on its own motion,
23 may complain to the commission concerning the
24 reasonableness of the price of competitive

1 telecommunications service. Any notice and hearing of any
2 complaint shall be in accordance with the Wyoming
3 Administrative Procedure Act and this chapter. The
4 commission shall only set aside any price for competitive
5 telecommunications service it finds after notice and
6 hearing to be unreasonable or unreasonably discriminatory.
7 If the commission sets aside a price as unreasonable or
8 unreasonably discriminatory, the telecommunications company
9 shall have sixty (60) days to negotiate a new price that is
10 reasonable. The company shall refund any charges found to
11 be unreasonable as ordered by the commission. Any price
12 for competitive telecommunications service that is at or
13 less than the price charged on July 1, 2006, for the same
14 service is presumed to be fair and reasonable, subject to
15 rebuttal by the commission or any party to the hearing.
16 The reasonableness of the price subject to the complaint
17 shall be evaluated solely upon the facts related to
18 prevailing market prices. The complaint shall specify
19 facts demonstrating the manner in which the price that is
20 the subject of the complaint is significantly inconsistent
21 with the same or similar prices of any nonaffiliated
22 telecommunications company including competitive local
23 exchange carriers, cable providers, wireless providers and

1 any other provider including providers using internet
2 protocol transmission.

3
4 (c) Any person, and the commission on its own motion,
5 may complain to the commission concerning the
6 reasonableness of the price of wholesale telecommunications
7 service. Any notice and hearing of any complaint shall be
8 in accordance with the Wyoming Administrative Procedure Act
9 and this chapter. The commission shall only set aside any
10 price for wholesale telecommunications service it finds
11 after notice and hearing to be unreasonable or unreasonably
12 discriminatory. If the commission sets aside a price as
13 unreasonable or unreasonably discriminatory, the
14 telecommunications company shall have sixty (60) days to
15 negotiate a new price that is reasonable. The company
16 shall refund any charges found to be unreasonable as
17 ordered by the commission. Any price for wholesale
18 telecommunications service that is eighty-five percent
19 (85%) or less than the price charged by the
20 telecommunications company for the same service to its
21 retail customers is presumed to be fair and reasonable,
22 subject to rebuttal by the commission or any party to the
23 hearing.

24

1 **37-15-406. Quality of service.**

2

3 (b) Any customer, and the commission on its own
4 motion, may complain concerning the quality of service
5 provided by a telecommunications company. A complaint shall
6 be noticed and heard as provided for in the Wyoming
7 Administrative Procedure Act. The commission, after notice
8 and hearing, may direct the telecommunications company to
9 take whatever remedial action is technically feasible and
10 economically reasonable to provide reasonably adequate
11 service. The commission shall authorize a
12 telecommunications provider to recover the cost of
13 compliance ~~with~~ as determined by any commission order under
14 this section.

15

16 **37-15-407. Annual report.**

17

18 (a) The commission shall with the input and
19 participation of the telecommunications industry and other
20 relevant state departments, boards and agencies prepare and
21 issue an annual report on the status of the
22 telecommunications industry. ~~and Wyoming regulation thereof~~
23 ~~on January 10 of each year beginning in 1996. Such~~ The

1 report shall be based on information provided to the
2 commission and shall include:

3
4 **37-15-408. Applicability of existing law.**

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

21
22 **37-15-501. Universal service fund created;**
23 **contributions; administration.**
24

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

15

16 (d) In accordance with the method of distribution
17 determined by the commission, a telecommunications company
18 shall receive funds under this section to the extent that
19 its essential local exchange ~~rates~~ service prices, after
20 consideration of any contributions from the federal
21 universal service fund, exceed one hundred thirty percent
22 (130%) of the weighted statewide average essential local
23 exchange ~~rates~~ service prices.

24

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

3
4 (a) Telecommunications companies which use cellular,
5 radio spectrum or other wireless technology to provide
6 supported services to customers who are otherwise eligible
7 to receive universal service support pursuant to W.S.
8 37-15-501, may establish eligibility to receive universal
9 service fund distributions in an amount to be determined by
10 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)(vi) and (b),
22 37-15-201(c) through (h), 37-15-203(b) through (d),
23 37-15-204(b) and (c), 37-15-301(c) through (e), 37-15-402,
24 37-15-403, 37-15-406(a), 37-15-407(a)(i) through (iv),

1 37-15-410 and 37-15-411 are repealed.

2

3 **Section 3.** This act is effective July 1, 2007.

4

5 (END)