

SENATE FILE NO. SF0140

Wyoming Telecommunications Act-rewrite.

Sponsored by: Senator(s) Case

A BILL

for

1 AN ACT relating to telecommunications regulation; amending
2 and repealing portions of the Wyoming Telecommunications
3 Act; extending the act's sunset date; amending definitions;
4 deleting references to and regulation of interexchange
5 telecommunication companies; specifying and amending
6 application of the act; removing or repealing unnecessary
7 statutory language; amending application of the act to
8 voice over internet protocol; amending the standards for
9 determining if a company is subject to competition;
10 amending the regulatory authority and standards applicable
11 to telecommunication pricing and service requirements;
12 amending the authority of the Wyoming public service
13 commission; specifying when a company may withdraw
14 telecommunications service; amending price complaint
15 procedures and standards; amending the application of
16 existing laws to telecommunication companies as public

1 utilities; limiting services that qualify for benefits
2 under the universal service fund; specifying and amending
3 application of the universal service fund; providing for
4 the conclusion and eventual defunding of the universal
5 service fund; and providing for an effective date.

6
7 *Be It Enacted by the Legislature of the State of Wyoming:*

8
9 **Section 1.** W.S. 37-15-101(b),
10 37-15-103(a)(iv)(intro), (B), (ix), (xiv), (xvi)(A)(intro),
11 (I) and (V), 37-15-201(a) and (b), 37-15-202(a)(intro), (i)
12 and (c), 37-15-203(a), (e), (f)(intro) and (h),
13 37-15-204(a), 37-15-401(a)(intro), 37-15-404(c), 37-15-405
14 and 37-15-501(c) through (e) are amended to read:

15
16 **37-15-101. Short title; sunset.**

17
18 (b) This chapter is repealed effective July 1, ~~2015~~
19 2019.

20
21 **37-15-103. Definitions.**

22
23 (a) As used in this chapter:

1

2 (iv) "Essential telecommunications service"
3 means a customer's access to service that is necessary for
4 the origination or termination, or both, of two-way,
5 switched telecommunications ~~for both residential and~~
6 ~~business~~ service within a local exchange area. Essential
7 telecommunications services are limited to:

8

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

11

12 (ix) "Noncompetitive essential
13 telecommunications services" means those services which
14 have not been found by the legislature or the commission to
15 be competitive in accordance with W.S. 37-15-202;

16

17 (xiv) "Universal service" means the general
18 availability of essential telecommunications service at an
19 affordable and reasonable price provided through a single
20 line at a single location;

21

22 (xvi) "Supported services" means the services or
23 functionalities which shall be supported by the state

1 universal service fund pursuant to W.S. 37-15-502, as
2 described in subparagraphs (A) and (B) of this paragraph:

3
4 (A) The services designated for support are
5 limited to a single line at a single location and are:

6
7 (I) Voice grade access to the public
8 switched network. "Voice grade access" is defined as a
9 functionality that enables a user of telecommunications
10 services to transmit voice communications, including
11 signaling the network that the caller wishes to place a
12 call, and to receive voice communications, including
13 receiving a signal indicating there is an incoming call;.

14 ~~For the purposes of this subparagraph, bandwidth for voice~~
15 ~~grade access shall be, at a minimum, three hundred (300) to~~
16 ~~three thousand (3,000) Hertz;~~

17
18 (V) Access to emergency services.
19 "Access to emergency services" includes access to services,
20 such as 911 and enhanced 911, provided by local governments
21 or other public safety organizations. ~~911 is defined as a~~
22 ~~service that permits a telecommunications user, by dialing~~
23 ~~the three digit code "911," to call emergency services~~

~~through a public safety answering point operated by the
local government. "Enhanced 911" is defined as 911 service
that includes the ability to provide automatic numbering
information, which enables the public safety answering
point to call back if the call is disconnected, and
automatic location information, which permits emergency
service providers to identify the geographic location of
the calling party. "Access to emergency services" includes
access to 911 and enhanced 911 services in accordance with
applicable governing authority;~~

**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 July 1, ~~2007~~2015, 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 essential telecommunications local exchange
service shall obtain a certificate of public convenience

1 and necessity from the commission prior to providing that
2 service in this state.

3
4 (b) The commission shall grant a certificate or
5 certificates of public convenience and necessity to provide
6 ~~local exchange~~ essential telecommunications service if it
7 finds, after notice and opportunity for hearing, that the
8 applicant ~~possesses sufficient technical, financial and~~
9 ~~managerial resources to provide safe, adequate and reliable~~
10 ~~local exchange services within the identified geographic~~
11 ~~area~~ is capable of providing service.

12
13 **37-15-202. Determination of competitive services.**

14
15 (a) Upon petition by any telecommunications company,
16 the commission may, after notice and opportunity for
17 hearing, find and conclude that a telecommunications
18 service is subject to competition. Any service found to be
19 ~~effectively~~ competitive shall not be subject to regulation
20 ~~of prices~~ by the commission and shall not be eligible for
21 support under article 5 of this title. The commission
22 shall consider only the following factors in determining

1 whether a telecommunications service is subject to
2 ~~effective~~ competition:

3
4 (i) The extent to which telecommunications
5 services are available from alternative providers
6 including, but not limited to, wireless providers,
7 satellite providers, cable providers offering voice
8 services, voice over internet protocol or any other
9 providers utilizing telephone numbers to provide voice
10 services in the relevant market;

11
12 (c) Telecommunications service ~~provided by new~~
13 ~~entrants, local exchange services provided by resale,~~
14 ~~telecommunications services provided by interexchange~~
15 ~~telecommunications companies, interexchange~~
16 ~~telecommunications services and telecommunications services~~
17 ~~other than local exchange service~~ other than essential
18 telecommunications service and switched access ~~provided by~~
19 ~~a local exchange company~~ shall be considered subject to
20 competition for purpose of regulation under this title.

21
22 **37-15-203. Price regulation of noncompetitive**
23 **essential services.**

1

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

20

21 (e) A ~~local exchange company~~ provider of
22 noncompetitive essential telecommunications service may
23 seek approval to make revenue neutral adjustments,

1 considering only revenue from noncompetitive essential
2 telecommunications services, to the price of noncompetitive
3 essential telecommunications services to reduce or
4 eliminate differences in the price of noncompetitive
5 essential telecommunications services in different portions
6 of its service area. A ~~local exchange company~~ provider of
7 noncompetitive essential telecommunications service shall
8 not use adjustments under this section to increase receipt
9 of state universal service funds or increase switched
10 access prices. ~~This subsection shall not apply~~
11 ~~retroactively.~~

12
13 (f) A ~~local exchange company~~ provider of
14 noncompetitive essential telecommunications service may
15 seek approval to increase the price of noncompetitive
16 essential telecommunications services, including switched
17 access charges, based on:

18
19 (h) The prices of any ~~local exchange company~~
20 noncompetitive essential telecommunications service may
21 contain provisions for incentives for improvement of the
22 company's performance or efficiency, lowering of operating
23 costs, control of expenses or improvement and upgrading or

1 modernization of its services or facilities. Any ~~local~~
2 ~~exchange~~ ~~company~~ noncompetitive essential
3 telecommunications service may apply to the commission for
4 incentives and innovative or nontraditional price
5 regulation, including price indexing. The commission shall
6 issue a final order approving, modifying or rejecting any
7 application made under this subsection within one hundred
8 eighty (180) days of the filing date of the application
9 with the commission. If no order is issued by the
10 commission within the one hundred eighty (180) day period,
11 the application shall be deemed approved as filed. If
12 during consideration of an application for regulation under
13 this subsection, the commission materially alters the plan
14 as filed in the application, the applying ~~local exchange~~
15 ~~company~~ provider of noncompetitive essential
16 telecommunications service may notify the commission in
17 writing, at any time, but not later than sixty (60) days
18 after any final commission order on the application, that
19 it elects not to be price regulated as approved by the
20 order. ~~The local exchange company's~~ Prices of the
21 noncompetitive essential telecommunications service
22 provider shall then be regulated as they were prior to the

1 application until such time as a new application is filed,
2 approved and accepted.

3
4 **37-15-204. Price schedules.**

5
6 (a) A ~~local exchange company~~ provider of
7 noncompetitive essential telecommunications service shall
8 file with the commission, in such form and detail as the
9 commission may require, schedules showing all
10 noncompetitive essential telecommunications services terms,
11 conditions and prices currently in effect and charged to
12 customers by the company in this state. ~~All prices for new~~
13 ~~noncompetitive telecommunications services, and any~~
14 ~~increase in prices for noncompetitive telecommunications~~
15 ~~services as authorized by the commission pursuant to W.S.~~
16 ~~37-15-203, shall be filed thirty (30) days prior to the~~
17 ~~proposed effective date. No price increase for a~~
18 ~~noncompetitive service shall be effective unless the~~
19 ~~customer has been given notice by the provider at least one~~
20 ~~(1) full billing cycle prior to the proposed increase and~~
21 ~~the increase has been approved by the commission as~~
22 ~~required by W.S. 37-15-203. No price or price change is~~
23 ~~effective until filed in accordance with this section.~~

~~Prices charged for competitive services shall be in accordance with its price schedule unless a separate contract is negotiated. Prices for generally offered competitive services shall be publicly available on a company's website through the internet, the world wide web or a similar proprietary or common carrier or provided to the commission. Price schedules may be filed in electronic format at the option of the company. For purposes of this subsection, the rules, regulations, policies, practices and other requirements relating to services shall be filed with the commission in such form and detail as the commission may require. Rules, regulations, policies, practices and other requirements relating to competitive services shall be subject to the same requirements under this chapter as the prices of competitive services. Those relating to noncompetitive services shall be subject to the same requirements under this chapter as the prices of noncompetitive services.~~

37-15-401. Commission powers.

1 (a) ~~In addition to the powers exercised pursuant to~~
2 ~~the provisions of W.S. 37-15-408,~~ The commission has the
3 power to:
4

5 **37-15-404. Protection of telecommunications**
6 **consumers.**
7

8 (c) A telecommunications company providing a
9 noncompetitive essential telecommunications service shall
10 not discontinue providing the service without the
11 commission's approval. The commission shall not deny a
12 petition to withdraw service when the service is provided
13 at extraordinary cost or the service can be provided with
14 alternative technology at a lower cost.
15

16 **37-15-405. Complaint against prices.**
17

18 Any person, and the commission on its own motion, may
19 complain to the commission concerning the reasonableness of
20 the price of any noncompetitive essential
21 telecommunications service or any violation of W.S.
22 37-15-404. Any notice and hearing of any complaint shall
23 be in accordance with the Wyoming Administrative Procedure

1 Act and this chapter. ~~The commission shall only set aside~~
2 ~~any price it finds after notice and hearing to be~~
3 ~~unreasonable or unreasonably discriminatory. If the~~
4 ~~commission sets aside a price as unreasonable or~~
5 ~~unreasonably discriminatory, the telecommunications company~~
6 ~~shall have sixty (60) days to file a new price which is~~
7 ~~reasonable. The company shall refund any charges found to~~
8 ~~be unreasonable as ordered by the commission. Rates or~~
9 ~~prices for noncompetitive essential services in effect as~~
10 ~~of July 1, 2006, are deemed to be fair and reasonable.~~

11

12 **37-15-501. Universal service fund created;**
13 **contributions; administration.**

14

15 (c) The commission shall administer the monies in the
16 universal service fund to assist only those customers of
17 telecommunications companies located in rural high cost
18 areas of this state with relatively high rates for
19 noncompetitive essential telecommunications services
20 provided that support is limited to a single line at a
21 single location. The commission, after notice and
22 opportunity for hearing, shall determine a reasonable
23 amount and a fair method of distributing monies. The

1 commission may authorize a credit to customer bills, in the
2 amount specified by the commission, to reflect
3 distributions received by the local exchange company from
4 the universal service fund. The commission shall ensure
5 that the method shall promote the emergence of competition
6 in providing local exchange service.

7
8 (d) In accordance with the method of distribution
9 determined by the commission, ~~a telecommunications company~~
10 ~~shall receive funds under this section to the extent that~~
11 ~~its essential local exchange service prices, after~~
12 ~~consideration of any contributions from the federal~~
13 ~~universal service fund, exceed one hundred thirty percent~~
14 ~~(130%) of the weighted statewide average essential local~~
15 ~~exchange service prices.~~ distributions to eligible
16 telecommunications companies shall be based on a benchmark
17 price established by the commission. The benchmark price
18 shall be the rate the commission determines to be a
19 reasonable price customers should pay for local exchange
20 service, but shall not be less than forty dollars (\$40.00)
21 per month.

(e) The commission shall determine a method that ensures all monies in the fund are distributed by the sunset date of this act. Prior to the sunset date, the operation of the universal service fund may be suspended by the commission, based upon a public interest finding, after notice and an opportunity for a hearing, that the fund is not then serving its intended purpose.

9 **Section 2.** W.S. 37-15-103(a)(i), (iv)(A), (v), (viii),
10 (xiii), (xv), (xvi)(A)(II) through (IV), (VI) through (IX),
11 (B) and (xvii), 37-15-104, 37-15-105(d), 37-15-202(a)(ii)
12 and (iii), (b), (d) through (g), 37-15-203(j),
13 37-15-204(d), 37-15-301(a) and (b), 37-15-401(a)(iv),
14 37-15-404(d) and 37-15-408 are repealed.

16 **Section 3.** This act is effective July 1, 2015.

18 (END)