

SENATE FILE NO. SF0043

Wyoming Telecommunications Act revisions.

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

A BILL

for

1 AN ACT relating to telecommunications; amending the Wyoming
2 Telecommunications Act as specified; extending the Wyoming
3 Telecommunications Act's sunset date; amending the
4 authority of the public service commission; amending
5 regulatory authority over telecommunications companies
6 deemed to be competitive; amending the operation of the
7 Wyoming universal service fund; providing an alternative
8 distribution option for the Wyoming universal service fund;
9 establishing a benchmark price for essential local exchange
10 services; providing standards for the review and alteration
11 of the benchmark price; establishing a cap on additional
12 expenditures related to the Wyoming universal service fund;
13 repealing and amending obsolete standards and language;
14 amending language related to competitive carrier

1 regulation; amending deadlines related to certificates of
2 public convenience; and providing for an effective date.

3

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

5

6 **Section** **1.** W.S. 37-15-101(b),
7 37-15-103(a) (xvi) (A) (I), 37-15-201(a), 37-15-202(a) (intro)
8 and (i), (c), (d) (i) and by creating new subsections (h)
9 and (j), 37-15-203(j), 37-15-204(a) and 37-15-501(b)
10 through (e) and by creating new subsections (g) and (h) are
11 amended to read:

12

13 **37-15-101. Short title; sunset.**

14

15 (b) This chapter is repealed effective July 1, ~~2015~~
16 2019.

17

18 **37-15-103. Definitions.**

19

20 (a) As used in this chapter:

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
5 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 **37-15-201. Regulation of local exchange services;**
19 **certificates of public convenience and necessity;**
20 **concurrent certificates.**

21

22 (a) Except for those telecommunications companies
23 that as of July 1, ~~2007~~2015, have a valid certificate of

1 public convenience and necessity previously issued by the
2 commission to provide local exchange services in the state,
3 all telecommunications companies seeking to offer and
4 provide local exchange service shall obtain a certificate
5 of public convenience and necessity from the commission
6 prior to providing that service in this state.

7

8 **37-15-202. Determination of competitive services.**

9

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

20

21 (i) The extent to which telecommunications
22 services are available from alternative providers
23 including, but not limited to, wireless providers,

1 satellite providers, cable providers offering voice
2 services, voice over internet protocol or any other
3 providers utilizing telephone numbers to provide voice
4 services in the relevant market;

5
6 (c) Telecommunications service provided by new
7 entrants, local exchange services provided by resale,
8 telecommunications services provided by interexchange
9 telecommunications companies, interexchange
10 telecommunications services and telecommunications services
11 other than local exchange service and switched access
12 provided by a local exchange company shall be considered
13 subject to competition for purpose of regulation under this
14 title. Notwithstanding the foregoing, local exchange
15 service may be determined to be competitive pursuant to
16 subsection (a) of this section.

17
18 (d) Notwithstanding subsection (a) of this section
19 the commission shall, in an area defined by an applicant,
20 find retail telecommunications services other than switched
21 access are competitive provided:

22

1 (i) At least seventy-five percent (75%) of the
2 class of customers in the area have access to at least one
3 (1) landline carrier unaffiliated with the applicant
4 providing ~~telecommunications service that includes~~ local
5 voice ~~telecommunications~~ service. The local voice
6 ~~telecommunications~~ service may be provided in combination
7 with other services. If a company does not differentiate
8 between residential and business classes of service in its
9 application, the requirement shall be that at least sixty
10 percent (60%), considering residential and business
11 customers as one (1) class of customers, have access to at
12 least one (1) landline carrier unaffiliated with the
13 applicant;

14

15 (h) Nothing in this section affects or modifies:

16

17 (i) Any applicable wholesale tariff or any
18 commission authority to implement or enforce any rights,
19 duties or obligations of any party related to wholesale
20 services;

21

1 (ii) Any entity's obligations or rights or
2 commission authority under the Federal Communications Act
3 of 1934, 47 U.S.C. 251 and 252;

4
5 (iii) Any commission jurisdiction over
6 intrastate switched access rates, terms and conditions,
7 including the implementation of federal law with respect to
8 intercarrier compensation;

9
10 (iv) Any commission jurisdiction or authority
11 pursuant to W.S. 37-15-401(a)(vii), including commission
12 jurisdiction or authority to address federal high cost fund
13 or federal universal service fund issues.

14
15 (j) Services found to be competitive under subsection
16 (a), (c) or (d) of this section shall be subject to the
17 following:

18
19 (i) Any required assessments under W.S.
20 37-15-501 and 37-15-502;

21

1 (ii) Any required assessment of 911 or E911
2 emergency service taxes as provided in title 16, chapter 9,
3 article 1 of the Wyoming statutes;

4
5 (iii) Any required special fee under W.S.
6 16-9-209;

7
8 (iv) Any required assessment levied under W.S.
9 37-2-106 through 37-2-109;

10
11 (v) Certification as applicable under W.S.
12 37-15-201.

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

16
17 (j) Unless as otherwise directed under federal law,
18 noncompetitive switched access shall not be priced above
19 three cents (\$.03) per minute after January 1, 2010.

20 ~~Prices for noncompetitive switched access which exceed~~
21 ~~three cents (\$.03) per originating and terminating minute~~
22 ~~shall be reduced to three cents (\$.03) per minute on or~~
23 ~~before January 1, 2010. Any telecommunications company~~

1 ~~which must reduce noncompetitive switched access prices~~
2 ~~under this subsection shall, on or before January 1, 2010,~~
3 ~~submit a proposed plan to the commission, identifying the~~
4 ~~amount of intrastate switched access revenues and access~~
5 ~~lines in the years until the date of filing, to reduce~~
6 ~~switched access prices in annual increments to meet the~~
7 ~~requirements of this subsection, and a request for~~
8 ~~corresponding annual revenue neutral incremental increases~~
9 ~~to noncompetitive essential service prices to offset the~~
10 ~~anticipated loss in revenue from a reduction in switched~~
11 ~~access prices. The commission shall review the proposal~~
12 ~~and the facts set forth in the proposed plan to ensure that~~
13 ~~it is accurate and consistent with this section. The~~
14 ~~telecommunications company shall satisfy any requests for~~
15 ~~information by the commission, and shall modify the plan as~~
16 ~~necessary to conform to the facts the commission finds~~
17 ~~after investigation to be accurate. Once the commission~~
18 ~~approves the proposed plan, the noncompetitive switched~~
19 ~~access and noncompetitive essential service prices proposed~~
20 ~~in the plan shall go into effect after compliance with W.S.~~
21 ~~37-15-204. The commission may authorize noncompetitive~~
22 ~~switched access prices above three cents (\$.03) per minute~~
23 ~~for an additional transition period not to exceed two (2)~~

1 ~~years ending January 1, 2012, only upon a showing that~~
2 ~~access prices are supported by a current total long-run~~
3 ~~incremental cost study as defined by W.S.~~
4 ~~37-15-103(a)(xiii) based upon data after January 1, 2008. A~~
5 ~~telecommunications company increasing rates pursuant to~~
6 ~~this subsection may utilize the universal service fund for~~
7 ~~eligible access lines as provided in W.S. 37-15-501 and~~
8 ~~37-15-502 and commission rule and regulation.~~

9
10 **37-15-204. Price schedules.**

11
12 (a) A local exchange company shall file with the
13 commission, in such form and detail as the commission may
14 require, schedules showing all noncompetitive
15 telecommunications services terms, conditions and prices
16 currently in effect and charged to customers by the company
17 in this state. All prices for new noncompetitive
18 telecommunications services, and any increase in prices for
19 noncompetitive telecommunications services as authorized by
20 the commission pursuant to W.S. 37-15-203, shall be filed
21 thirty (30) days prior to the proposed effective date. No
22 price increase for a noncompetitive service shall be
23 effective unless the customer has been given notice by the

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

23

1

2 **37-15-501. Universal service fund created;**
3 **contributions; administration.**

4

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

18

19 (c) The commission shall administer the monies in the
20 universal service fund to assist only those customers of
21 telecommunications companies located in areas of this state
22 with relatively high rates for noncompetitive essential
23 local exchange services. Services deemed competitive under

1 W.S. 37-15-202(a), (c) or (d) shall not be eligible for
2 universal service fund support under this article. The
3 commission, after notice and opportunity for hearing, shall
4 determine a reasonable amount and a fair method of
5 distributing monies. The commission may authorize a credit
6 to customer bills, in the amount specified by the
7 commission, to reflect distributions received by the local
8 exchange company from the universal service fund. The
9 commission shall ensure that the method shall promote the
10 emergence of competition in providing local exchange
11 service.

12
13 (d) In accordance with the method of distribution
14 determined by the commission, a telecommunications company
15 shall, unless it elects to receive Wyoming universal
16 service funds pursuant to the method set forth in
17 subsection (g) of this section, receive funds under this
18 section to the extent that its noncompetitive essential
19 local exchange service prices, after consideration of any
20 contributions from the federal universal service fund,
21 exceed ~~one hundred thirty percent (130%) of the weighted~~
22 ~~statewide average essential local exchange service prices~~

1 the price benchmark established in subsection (h) of this
2 section.

3
4 (e) The following limitations shall be applied to
5 operation of the universal service fund:

6
7 (i) The operation of the universal service fund
8 may be suspended by the commission, based upon a public
9 interest finding, after notice and an opportunity for a
10 hearing, that the fund is not then serving its intended
11 purpose;—

12
13 (ii) In the event that distributions made
14 pursuant to subsection (g) of this section cause total
15 distributions from the universal service fund in any fiscal
16 year to exceed one hundred twenty-five percent (125%) of
17 the amount distributed in fiscal year 2013-2014, the
18 commission shall reduce payments among those electing
19 distributions under subsection (g) of this section, pro
20 rata, so as to reduce the total distribution to one hundred
21 twenty-five (125%) of the fiscal year 2013-2014
22 distribution amount.

23

1 (g) A telecommunications company that undertakes the
2 requirements set forth in this subsection may make a
3 one-time, irrevocable before July 1, 2019, election in
4 writing to the commission to receive Wyoming universal
5 service funds pursuant to this subsection rather than
6 pursuant to subsection (d) of this section. In order to
7 receive funds pursuant to this subsection, the company
8 shall provide essential local exchange service, or its
9 functional equivalent, upon reasonable request throughout
10 the local exchange area of a rural incumbent local exchange
11 carrier, as defined by the federal communications
12 commission on January 1, 2015, at a price not exceeding the
13 price benchmark established in subsection (h) of this
14 section. A telecommunications company which elects to
15 receive Wyoming universal service funds pursuant to this
16 subsection shall receive funds to the extent that its loop
17 costs, as reflected in the company's most recent annual
18 filing of unseparated loop costs filed with the Universal
19 Service Administration Company, exceed the company's most
20 recent annual federal universal service funds receipts and
21 annual local revenues. In calculating annual local
22 revenues the commission shall utilize the imputed price
23 benchmark established in subsection (h) of this section.

1 If an otherwise qualified company elects to receive Wyoming
2 universal service funds pursuant to this subsection, but
3 does not file an annual unseparated loop cost report with
4 the Universal Service Administration Company, it shall file
5 the equivalent information with the commission.

6
7 (h) The price benchmark shall be thirty dollars
8 (\$30.00) until July 1, 2019 unless otherwise adjusted by
9 the commission pursuant to this subsection. On and after
10 July 1, 2019, the commission shall review the price
11 benchmark one (1) time every four (4) years and, after
12 review, shall adjust the benchmark as necessary to assure
13 that it approximates one hundred thirty percent (130%) of
14 the weighted statewide average essential local exchange
15 service price. The commission may change the price
16 benchmark at any time if, after notice and opportunity for
17 a hearing, the commission determines that the price
18 benchmark does not approximate one hundred thirty percent
19 (130%) of the weighted statewide average essential local
20 exchange service price and that the price benchmark should
21 be adjusted by ten percent (10%) or more.

22

1 **Section 2.** W.S. 37-15-103(a)(xiii) and (xv),
2 37-15-104(a)(vi)(A) and 37-15-204(d) are repealed.

3

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

5

6

(END)