

SENATE FILE NO. SF0051

Wyoming telecommunications act revisions.

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

A BILL

for

1 AN ACT relating to the Wyoming telecommunications act;
2 extending the sunset date of the act; amending definitions;
3 specifying the application of the act; specifying
4 requirements for providing price schedules to the public
5 service commission; providing a limitation on local
6 governments entering an exclusive agreement for provision
7 of broadband internet access service; amending the price
8 benchmark and credit requirements for the universal service
9 fund; repealing conflicting provisions; requiring
10 rulemaking; and providing for effective dates.

11

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

13

14 **Section 1.** W.S. 37-15-101(b), 37-15-103(a)(iv)(E), by
15 creating a new subparagraph (F), (viii), (ix), (xiv) and by

1 creating new paragraphs (xviii) and (xix),
2 37-15-104(a)(intro), by creating a new subsection (b) and
3 by amending and renumbering (b) as (c), 37-15-195(c),
4 37-15-202(a)(intro), (d)(intro) and (i), 37-15-203(f)(iv),
5 37-15-204(a), 37-15-404(c), (e)(i), (v), (vi) and by
6 creating a new paragraph (vii), 37-15-405, 37-15-406(b),
7 37-15-413(a)(intro), (i) through (iii), (b), (c)(intro),
8 (d) and (e)(ii), 37-15-501(c), (d), (g) and (h) and
9 37-15-502(a)(intro), (i) and (iii) are amended to read:

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11 **37-15-101. Short title; sunset.**

12

13 (b) This chapter is repealed effective ~~July 1, 2025~~
14 July 1, 2031.

15

16 **37-15-103. Definitions.**

17

18 (a) As used in this chapter:

19

20 (iv) "Essential telecommunications service"
21 means a customer's access to service that is necessary for
22 the origination or termination, or both, of two-way,
23 switched telecommunications for both residential and

1 business service within a local exchange area. Essential
2 telecommunications services are limited to:

3

4 (E) Switched access, which for the purposes
5 of this chapter shall mean the switching and transport
6 necessary to connect an interexchange telecommunications
7 company with the local exchange central office for the
8 purpose of originating or terminating, or both, the
9 interexchange telecommunications company's switched
10 telecommunications service; ~~and~~ and

11

12 (F) Local exchange service.

13

14 (viii) "Local exchange service" means ~~the~~
15 ~~provision of essential telecommunications~~ residential or
16 business service within a local exchange area capable of
17 providing; ~~and~~

18

19 (A) Access to interexchange services
20 provided by interexchange telecommunications companies;

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22 (B) Single line flat-rate or single line
23 measured residential 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 and local network switching facility including the necessary signaling service used by customers to access essential telecommunications services;

(D) Services necessary to connect 911 emergency services to the local network.

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

(xiv) "Universal service" means the general availability of ~~essential telecommunications~~ local exchange service at an affordable and reasonable price;

(xviii) "Broadband internet access service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive

1 data from all or substantially all internet endpoints,
2 including any capabilities that are incidental to and
3 enable the operation of the communications service.
4 "Broadband internet access service" shall not include
5 dial-up internet access service;

6
7 (xix) "Noncompetitive local exchange service"
8 means local exchange service at locations which have not
9 been found by the legislature or the commission to be
10 competitive in accordance with W.S. 37-15-202.

11
12 **37-15-104. Services regulated by this title.**

13
14 (a) Except to the extent otherwise provided in this
15 section, the provisions of this title shall only apply to
16 noncompetitive essential telecommunications services. All
17 telecommunications services shall be subject to
18 contributions to the universal service fund required
19 pursuant to W.S. 37-15-501, the requirements of W.S.
20 37-15-202(h), 37-15-401, 37-15-404, 37-15-412 and
21 37-15-413, the requirements of W.S. 37-15-105 for voice
22 over internet protocol and IP enabled services and the
23 assessment levied pursuant to W.S. 37-2-106 through

1 ~~37-2-109., telecommunications service does not include, and~~
2 ~~the provisions of this title do not apply to:~~

3

4 (b) The provisions of this title do not apply to
5 telecommunications services using radio spectrum, cellular
6 or other wireless technology except to the extent provided
7 in paragraphs (i) through (iv) of this subsection:

8

9 (i) To the extent permitted in accordance with
10 the requirements of federal law relating to the
11 consideration and determination of an application for
12 designation as a federal eligible telecommunications
13 carrier;

14

15 (ii) Determinations of eligibility for and
16 amounts of distribution of state universal service funds in
17 accordance with W.S. 37-15-502;

18

19 (iii) Any required contributions to the
20 universal service fund under W.S. 37-15-501;

21

22 (iv) Any required assessment levied under W.S.
23 37-2-106 through 37-2-109.

1

2 ~~(b)(c) In addition to subsection (a) of this section,~~
3 ~~telecommunications service does not include, and~~ The
4 provisions of this title do not apply to:

5

6 (i) Telecommunications services provided by the
7 department of enterprise technology to private health care
8 providers under W.S. 9-2-2906(j) ~~;~~ or

9

10 (ii) Private telecommunications networks. As
11 used in this paragraph, "private telecommunications
12 network" means a system for the provision of
13 telecommunications service by a person for the sole and
14 exclusive use of the person and not for resale either
15 directly or indirectly.

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17 **37-15-105. VoIP and internet protocol enabled**
18 **services.**

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20 (c) If a service provider voluntarily chooses to
21 receive Wyoming universal service funds to support voice
22 over internet protocol service that otherwise qualifies for
23 support pursuant to W.S. 37-15-501 or 37-15-502, then that

1 supported voice over internet protocol service shall be
2 subject to all laws and rules governing the receipt of such
3 funds, and the support provided to those services shall not
4 exceed the support that would be provided to eligible
5 noncompetitive ~~essential~~ local exchange services on a
6 per-access-line basis.

7

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

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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 or that local exchange service is competitive
15 in certain locations. Any service found to be effectively
16 competitive pursuant to this section shall not be subject
17 to regulation by the commission. Any location deemed to
18 have effective competition for local exchange service shall
19 be ineligible for universal service fund support except
20 that a telecommunications carrier may continue to receive
21 universal service support for noncompetitive locations
22 pursuant to W.S. 37-15-501 and that support shall account
23 for price and cost adjustments necessary because of the

1 competitive classification of formerly supported locations.

2 The commission shall consider only the following factors in
3 determining whether a telecommunications service is subject
4 to effective competition:

5

6 (d) Notwithstanding subsection (a) of this section
7 the commission shall, in an area defined by an applicant,
8 find ~~retail telecommunications~~ local exchange services
9 ~~other than switched access~~ are competitive provided:

10

11 (i) At least seventy-five percent (75%) of the
12 class of customers in the area have access to at least one
13 (1) landline carrier unaffiliated with the applicant
14 providing local ~~voice~~ exchange service. The local ~~voice~~
15 exchange service may be provided in combination with other
16 services. If a company does not differentiate between
17 residential and business classes of service in its
18 application, the requirement shall be that at least sixty
19 percent (60%), considering residential and business
20 customers as one (1) class of customers, have access to at
21 least one (1) landline carrier unaffiliated with the
22 applicant;

23

1 **37-15-203. Price regulation of noncompetitive**
2 **essential services.**

3

4 (f) A local exchange company may seek approval to
5 increase the price of noncompetitive essential
6 telecommunications services, including switched access
7 charges, based on:

8

9 (iv) Increases in the cost of providing
10 essential telecommunications services. The increases shall
11 be judged on the overall federal gross domestic product
12 price index published by the United States department of
13 commerce, bureau of economic analysis unless the applicant
14 demonstrates that specific cost increases are
15 disproportionably affecting the cost of providing their
16 noncompetitive essential telecommunications services.

17

18 **37-15-204. Price schedules.**

19

20 (a) A local exchange company shall post on its
21 website and file ~~with the commission, in such form and~~
22 ~~detail as~~ in electronic format to the commission ~~may~~
23 ~~require,~~ price schedules showing all noncompetitive

1 essential telecommunications services terms, conditions and
2 prices currently in effect and charged to customers by the
3 company in this state. All prices for new noncompetitive
4 essential telecommunications services, and any increase in
5 prices for noncompetitive essential telecommunications
6 services as authorized by the commission pursuant to W.S.
7 37-15-203, shall be filed with the commission for approval
8 thirty (30) days prior to the proposed effective date. The
9 company shall also provide notice to each impacted customer
10 electronically or in print using the same manner the
11 customer receives bills from the company. No price increase
12 for a noncompetitive essential telecommunications service
13 shall be effective unless the customer has been given
14 notice by the provider at least one (1) full billing cycle
15 prior to the proposed increase and the increase has been
16 approved by the commission as required by W.S. 37-15-203.
17 No price or price change is effective until filed in
18 accordance with this section. For purposes of this
19 subsection, the rules, regulations, policies, practices and
20 other requirements relating to services shall be posted on
21 a local exchange company's website and filed with the
22 commission in ~~such form and detail as~~ a simplified format
23 which is not required to comply with the tariff formatting

1 standards that were previously adopted by the commission.
2 ~~may require~~ A local exchange company shall not be required
3 to file or maintain paper copies of its price schedule with
4 the commission. Rules, regulations, policies, practices
5 and other requirements relating to noncompetitive essential
6 telecommunications services shall be subject to the same
7 requirements under this chapter as the prices of
8 noncompetitive essential telecommunications services.

9

10 **37-15-404. Protection of telecommunications**
11 **consumers.**

12

13 (c) A telecommunications company providing a
14 noncompetitive essential telecommunications service shall
15 not discontinue providing the service without the
16 commission's approval.

17

18 (e) The commission may adopt rules and regulations to
19 provide for:

20

21 (i) The interconnection of telecommunications
22 companies' networks at nondiscriminatory and reasonable

1 rates, terms and conditions, including interconnection
2 under 47 U.S.C. §§ 251 and 252;

3

4 (v) Telephone number portability to the full
5 extent technically feasible; ~~and~~

6

7 (vi) The resale and sharing of services and
8 functions at reasonable and nondiscriminatory rates; ~~and~~

9

10 (vii) Rates, terms and conditions of wholesale
11 service.

12

13 **37-15-405. Complaint against prices.**

14

15 Any person, and the commission on its own motion, may
16 complain to the commission concerning the reasonableness of
17 the price of any noncompetitive essential

18 telecommunications service or any violation of W.S.

19 37-15-404. Any notice and hearing of any complaint shall

20 be in accordance with the Wyoming Administrative Procedure

21 Act and this chapter. The commission shall only set aside

22 any price it finds after notice and hearing to be

23 unreasonable or unreasonably discriminatory. If the

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

9

10 **37-15-406. Quality of service.**

11

12 (b) Any customer, and the commission on its own
13 motion, may complain concerning the quality of service
14 provided by a telecommunications company for noncompetitive
15 essential telecommunications service. A complaint shall be
16 noticed and heard as provided for in the Wyoming
17 Administrative Procedure Act. The commission, after notice
18 and hearing, may direct the telecommunications company to
19 take whatever remedial action is technically feasible and
20 economically reasonable to provide reasonably adequate
21 service. The commission shall authorize a
22 telecommunications provider to recover the cost of

1 compliance as reasonably determined by any commission order
2 under this section.

3

4 **37-15-413. Limitation on authority of political**
5 **subdivision to enter exclusive agreement for provision of**
6 **telecommunications service or broadband internet access**
7 **service.**

8

9 (a) Except as provided in subsections (b) through (d)
10 of this section, before the governing body of any city or
11 town or other political subdivision of this state shall
12 provide for the construction, maintenance or operation of
13 any telecommunications service or broadband internet access
14 service by entering into an exclusive franchise,
15 partnership, joint venture, contract, resale agreement or
16 any other exclusive agreement with any party regarding
17 telecommunications service or broadband internet access
18 service, the city, town or other political subdivision
19 shall:

20

21 (i) Determine, after notice and opportunity for
22 a public hearing, that no private provider of
23 telecommunications services or broadband internet access

1 services, as applicable, is currently providing
2 substantially the same or similar service anywhere within
3 the boundaries of the city, town or political subdivision;

4
5 (ii) Have submitted a written request to all
6 private providers of telecommunications services or
7 broadband internet access services within the boundaries of
8 the city, town or political subdivision for provision of
9 the same quality and grade of telecommunications service or
10 broadband internet access service within the same time
11 frame and at the same consumer prices proposed under the
12 exclusive contract;

13
14 (iii) Determine, after notice and opportunity
15 for a public hearing that the private telecommunications
16 service or broadband internet access service providers have
17 not agreed within ninety (90) days of the receipt of the
18 request submitted pursuant to paragraph (ii) of this
19 subsection to provide the same quality and grade of service
20 within the same time frame and at the same consumer prices
21 as proposed under the exclusive contract, or if the
22 provider has agreed, that the provider has not commenced

1 providing or constructing facilities to provide the service
2 in the manner agreed upon; and

3

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

11

12 (c) Nothing in this section shall restrict the
13 governing body of a city or town, or other political
14 subdivision, from providing a telecommunications service, a
15 broadband internet access service or a related facility:

16

17 (d) Nothing in this section shall be construed to
18 restrict the governing body of a city or town or other
19 political subdivision, from providing a telecommunications
20 service or broadband internet access service to a party
21 within the geographic area in which the city, town or
22 political subdivision operates as a telecommunications

1 utility. Any city, town or political subdivision providing
2 a telecommunications service under this subsection shall:

3

4 (i) Provide the telecommunications service or
5 broadband internet access service on a nondiscriminatory,
6 nonexclusive and competitively neutral basis; and

7

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

13

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

19

20 (ii) If the city, town or political subdivision
21 does not cure the anticompetitive behavior within ninety
22 (90) days, the commission shall commence a contested case
23 hearing on the complaint, governed by the Wyoming

1 Administrative Procedure Act, W.S. 16-3-101 et seq. If,
2 following the hearing, the commission finds that the city,
3 town or political subdivision has violated this section,
4 the commission shall prohibit the city, town or political
5 subdivision from providing any telecommunications service
6 or broadband internet access service until the violation of
7 this section is remedied.

8

9 **37-15-501. Universal service fund created;**
10 **contributions; administration.**

11

12 (c) The commission shall administer the monies in the
13 universal service fund to assist only those customers of
14 telecommunications companies located in areas of this state
15 with relatively high rates for noncompetitive essential
16 local exchange services. Services deemed competitive under
17 W.S. 37-15-202(a), (c) or (d) shall not be eligible for
18 universal service fund support under this article. The
19 commission, after notice and opportunity for hearing, shall
20 determine a reasonable amount and a fair method of
21 distributing monies. The commission may authorize a credit
22 to customer bills, in the amount specified by the
23 commission, to reflect distributions received by the local

1 exchange company from the universal service fund, provided
2 that the credit is given only to one (1) line for each
3 customer or household. The commission shall ensure that
4 the method shall promote the emergence of competition in
5 providing local exchange service.

6

7 (d) In accordance with the method of distribution
8 determined by the commission, a telecommunications company
9 shall, unless it elects to receive Wyoming universal
10 service funds pursuant to the method set forth in
11 subsection (g) of this section, receive funds under this
12 section to the extent that its noncompetitive ~~essential~~
13 local exchange service prices, after consideration of any
14 contributions from the federal universal service fund,
15 exceed the price benchmark established in subsection (h) of
16 this section.

17

18 (g) A telecommunications company that undertakes the
19 requirements set forth in this subsection may make a
20 one-time, irrevocable before July 1, 2023, election in
21 writing to the commission to receive Wyoming universal
22 service funds pursuant to this subsection rather than
23 pursuant to subsection (d) of this section. In order to

1 receive funds pursuant to this subsection, the company
2 shall provide ~~essential~~noncompetitive local exchange
3 service, or its functional equivalent, upon reasonable
4 request throughout the local exchange area of a rural
5 incumbent local exchange carrier, as defined by the federal
6 communications commission on January 1, 2015, at a price
7 not exceeding the price benchmark established in subsection
8 (h) of this section. A telecommunications company which
9 elects to receive Wyoming universal service funds pursuant
10 to this subsection shall receive funds to the extent that
11 its loop costs, as reflected in the company's most recent
12 annual filing of unseparated loop costs filed with the
13 Universal Service Administration Company, exceed the
14 company's most recent annual federal universal service
15 funds receipts and annual local revenues. In calculating
16 annual local revenues the commission shall utilize the
17 imputed price benchmark established in subsection (h) of
18 this section. If an otherwise qualified company elects to
19 receive Wyoming universal service funds pursuant to this
20 subsection, but does not file an annual unseparated loop
21 cost report with the Universal Service Administration
22 Company, it shall file the equivalent information with the
23 commission.

1

2 (h) The price benchmark shall be ~~thirty dollars~~
3 ~~(\$30.00)~~ thirty-five dollars (\$35.00) unless otherwise
4 adjusted by the commission pursuant to this subsection.

5 The commission shall review the price benchmark one (1)
6 time every four (4) years and, after review, shall adjust
7 the benchmark as necessary to assure that it approximates
8 one hundred thirty percent (130%) of the weighted statewide
9 average ~~essential~~ local exchange service price. The
10 commission may change the price benchmark at any time if,
11 after notice and opportunity for a hearing, the commission
12 determines that the price benchmark does not approximate
13 one hundred thirty percent (130%) of the weighted statewide
14 average ~~essential~~ local exchange service price and that the
15 price benchmark should be adjusted by ten percent (10%) or
16 more.

17

18 **37-15-502. Universal service fund eligibility and**
19 **distribution to carriers.**

20

21 (a) Telecommunications companies which use cellular,
22 radio spectrum or other wireless technology to provide
23 ~~supported~~ essential services to customers who are otherwise

1 eligible to receive universal service support pursuant to
2 W.S. 37-15-501, may establish eligibility to receive
3 universal service fund distributions in an amount to be
4 determined by the commission, provided that:

5

6 (i) The telecommunications company will offer
7 and advertise all services supported by the universal
8 service fund ~~supported services~~ throughout the entire local
9 exchange area;

10

11 (iii) The telecommunications company's bill to
12 the customer reflects a credit for the amount of
13 distribution the company receives from the state universal
14 service fund for providing services supported by the
15 universal service fund ~~supported services~~ to that customer;
16 and

17

18 **Section 2.** W.S. 37-15-103(a)(iv)(A) through (D) and
19 (xvi) and 37-15-104(a)(i) through (xiii) are repealed.

20

21 **Section 3.** The department of revenue shall adopt any
22 rules required by W.S. 37-15-501(j) not later than July 1,
23 2026.

