

CHAPTER 64

PUBLIC UTILITIES

SENATE BILL 99-057

BY SENATORS Dennis, Andrews, Hernandez, and Hillman;
also REPRESENTATIVES Mitchell, Coleman, Dean, Fairbank, Gotlieb, Mace, McKay, Piffner, Scott, and Taylor.

AN ACT

CONCERNING THE ECONOMIC REGULATION OF TELECOMMUNICATIONS.

*Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 40-15-107, Colorado Revised Statutes, is amended to read:

40-15-107. Powers of commission - inspection of books and documents - confidentiality of information obtained through audit. (1) The commission shall administer and enforce all provisions of this article, and, in addition to any other powers under articles 1 to 7 of this title, the commission has the right to inspect the books and documents of the local exchange provider. ~~as those books and documents pertain to any proceeding pending before the commission.~~ The local exchange provider shall supply additional relevant and material information to the commission as needed. In addition, the commission has the right to inspect the books and records of any affiliate of a local exchange provider which provides telecommunications service under part 2, 3, or 4 of this article, if, in the provision of such service, the affiliate uses a plant or incurs costs ~~which~~ THAT are joint and common to the provision of any basic local exchange service of the local exchange provider regulated under part 2 of this article. ~~Upon application to the commission and for good cause shown, the commission may enter an appropriate protective order which directs the manner in which proprietary information shall be treated.~~

(2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), ALL INFORMATION, DOCUMENTS, AND COPIES THEREOF PROVIDED TO THE COMMISSION, A COMMISSIONER, OR ANY PERSON EMPLOYED BY THE COMMISSION IN CONNECTION WITH AN AUDIT, WHETHER SUCH AUDIT IS CONDUCTED PURSUANT TO THIS SECTION OR PURSUANT TO ANY OTHER AUTHORITY GRANTED TO THE COMMISSION BY LAW, SHALL BE GIVEN CONFIDENTIAL TREATMENT AND SHALL NOT BE MADE PUBLIC BY THE COMMISSION OR ANY OTHER PERSON WITHOUT EITHER:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) THE PRIOR WRITTEN CONSENT OF THE PERSON PROVIDING SUCH INFORMATION, DOCUMENTS, OR COPIES; OR

(II) A COURT ORDER ISSUED PURSUANT TO SECTION 24-72-204 (5), C.R.S.

(b) THIS SUBSECTION (2) SHALL NOT BE CONSTRUED TO SHIELD FROM DISCLOSURE INFORMATION, DOCUMENTS, AND COPIES THEREOF THAT ARE IN THE COMMISSION'S POSSESSION THROUGH THE EXERCISE OF THE COMMISSION'S AUDIT AUTHORITY AND THAT ARE OTHERWISE SUBJECT TO DISCLOSURE UNDER THE COLORADO OPEN RECORDS LAW, PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S. THE COMMISSION MAY CONSIDER WHETHER TO CHANGE THE STATUS OF REPORTS PROVIDED TO IT ON A NONCONFIDENTIAL BASIS.

SECTION 2. 40-15-111 (2), Colorado Revised Statutes, is amended to read:

40-15-111. Regulation of the discontinuation or rearrangement of basic local exchange service - measured or message rate service not required.

(2) Rearrangements of exchange areas ~~different from those in existence on July 2, 1996~~, shall require a ~~public hearing and~~ a determination by the commission that such rearrangement will promote the public interest and welfare and will not adversely impact the public switched network of the affected local exchange provider or such provider's financial integrity.

SECTION 3. 40-15-201 (1), (2) (c), and (2) (f), Colorado Revised Statutes, are amended to read:

40-15-201. Regulation by commission. (1) For purposes of this part 2, except as otherwise provided in this title, each provider of basic local exchange service is declared to be affected with a public interest and a public utility subject to the provisions of articles 1 to 7 of this title, so far as applicable, including the regulation of all rates and charges pertaining to local exchange companies; EXCEPT THAT, IF A PROVIDER APPLIES FOR AND RECEIVES COMMISSION APPROVAL OF AN ALTERNATIVE FORM OF REGULATION, OR IF A PROVIDER IS A SMALL LOCAL EXCHANGE PROVIDER SUBJECT TO SIMPLIFIED REGULATORY TREATMENT UNDER SECTION 40-15-203.5 OR 40-15-503 (2) (d), THE COMMISSION SHALL NOT CONSIDER THE PROVIDER'S OVERALL RATE OF RETURN OR OVERALL REVENUE REQUIREMENTS WHEN DETERMINING THE JUST AND REASONABLE RATE FOR A PARTICULAR PRODUCT OR SERVICE. FOR A SMALL LOCAL EXCHANGE PROVIDER SUBJECT TO SIMPLIFIED REGULATORY TREATMENT UNDER SECTION 40-15-203.5 OR 40-15-503 (2) (d), BASIC LOCAL EXCHANGE SERVICE SHALL BE REGULATED AS PROVIDED IN SUBSECTION (2) OF THIS SECTION. The commission may promulgate such rules ~~and regulations~~ as are necessary for the purpose of implementing the provisions of this part 2.

(2) The following products, services, and providers are declared to be subject to regulation pursuant to this part 2 and subject to potential reclassification under section 40-15-207:

(c) ~~Public coin telephone service;~~

(f) New products and services ~~necessary for the provision~~ INCLUDED IN THE

DEFINITION of basic local exchange service;

SECTION 4. 40-15-206 (2), Colorado Revised Statutes, is amended to read:

40-15-206. Regulation of the discontinuation or rearrangement of basic local exchange service - measured or message rate service not required.

(2) Rearrangements of exchange areas ~~different from those in existence on July 2, 1987~~, shall require a ~~public hearing and a~~ determination by the commission that such rearrangement will promote the public interest and welfare and will not adversely impact the public switched network of the affected local exchange provider or such provider's financial integrity.

SECTION 5. 40-15-302 (1), Colorado Revised Statutes, is amended to read:

40-15-302. Manner of regulation - rules. (1) (a) The commission shall promulgate rules ~~and regulations~~ as may be appropriate to regulate services and products provided pursuant to this part 3. In promulgating such rules, ~~and regulations~~, the commission shall consider such alternatives to traditional rate of return regulations as flexible pricing, detariffing, and other such manner and methods of regulation ~~that~~ AS are deemed consistent with the general assembly's expression of intent pursuant to section 40-15-101. ~~It is the intent of the general assembly that traditional rate base or rate of return regulation may be considered but shall not be the sole factor considered by the commission.~~ IF A PROVIDER APPLIES FOR AND RECEIVES COMMISSION APPROVAL OF AN ALTERNATIVE FORM OF REGULATION, OR IF A PROVIDER IS A SMALL LOCAL EXCHANGE PROVIDER SUBJECT TO SIMPLIFIED REGULATORY TREATMENT UNDER SECTION 40-15-203.5 OR 40-15-503 (2) (d), THE COMMISSION SHALL NOT CONSIDER THE PROVIDER'S OVERALL RATE OF RETURN OR OVERALL REVENUE REQUIREMENTS WHEN DETERMINING THE JUST AND REASONABLE RATE FOR A PARTICULAR PRODUCT OR SERVICE. A LOCAL EXCHANGE PROVIDER THAT DOES NOT ELECT AN ALTERNATIVE FORM OF REGULATION AND THAT IS SUBJECT TO RATE OF RETURN REGULATION SHALL FURNISH such rate of return information ~~shall be provided by the local exchange provider~~ as requested by the commission.

(b) (I) FOR A SMALL LOCAL EXCHANGE PROVIDER SUBJECT TO SIMPLIFIED REGULATORY TREATMENT UNDER SECTION 40-15-203.5 OR 40-15-503 (2) (d), PRICE CEILINGS SHALL BE ESTABLISHED FOR ALL PRODUCTS AND SERVICES REGULATED UNDER THIS PART 3 AS FOLLOWS:

(A) FOR SWITCHED ACCESS SERVICE, PRICES SHALL NOT RISE ABOVE THE LEVEL IN EFFECT ON THE EFFECTIVE DATE OF THIS PARAGRAPH (b); EXCEPT THAT PRICE CEILINGS MAY BE ADJUSTED BY THE COMMISSION TO CONFORM TO ITS RULES CONCERNING THE HIGH COST SUPPORT MECHANISM ESTABLISHED UNDER SECTION 40-15-208 OR TO CONFORM TO ANY COMPANY FILING THAT IS SUBJECT TO THE COMMISSION'S RATE-OF-RETURN JURISDICTION.

(B) FOR ALL OTHER PRODUCTS AND SERVICES, PRICE CEILINGS SHALL BE ESTABLISHED BY REFERENCE TO THE PRICES FOR SUCH PRODUCTS AND SERVICES IN EFFECT UNDER AN ALTERNATIVE FORM OF REGULATION APPROVED BY THE COMMISSION.

(II) THIS PARAGRAPH (b) SHALL NOT BE CONSTRUED TO PRECLUDE A SMALL LOCAL

EXCHANGE PROVIDER FROM ELECTING TRADITIONAL RATE-OF-RETURN REGULATION OR REQUESTING PRICE REGULATION OR ANOTHER ALTERNATIVE FORM OF REGULATION UNDER PART 5 OF THIS ARTICLE; AND THE FACT OF SUCH ELECTION OR REQUEST SHALL NOT BE CONSIDERED IN CONNECTION WITH A PROCEEDING TO ADJUST PRICES FOR PRODUCTS OR SERVICES OFFERED UNDER ANY ALTERNATIVE FORM OF REGULATION.

SECTION 6. 40-15-401 (1) (e), Colorado Revised Statutes, is amended, and the said 40-15-401 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

40-15-401. Services, products, and providers exempt from regulation.

(1) The following products, services, and providers are exempt from regulation under this article or under the "Public Utilities Law" of the state of Colorado:

(e) New products and services other than those ~~necessary to provide~~ INCLUDED IN THE DEFINITION OF basic local exchange service; ~~or those which fundamentally change the manner in which basic local exchange service functions, such as caller identification or last call return service;~~

(m) PUBLIC COIN TELEPHONE SERVICE.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 31, 1999