

CHAPTER 149

PUBLIC UTILITIES

HOUSE BILL 96-1010

BY REPRESENTATIVES Foster and Schwarz;
also SENATORS Meiklejohn, Feeley, Norton, Perlmutter, Schroeder, and Wattenberg.

AN ACT

CONCERNING EXPEDITED FILING OF TARIFFS FOR TELECOMMUNICATIONS SERVICES TO BE PROVIDED IN THE EMERGING COMPETITIVE LOCAL EXCHANGE MARKET.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 40-15-503 (2), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

40-15-503. Opening of competitive local exchange market - process of negotiation and rule-making - issues to be considered by commission.
(2) (g) (I) IN ADOPTING RULES UNDER PARAGRAPH (a) OF THIS SUBSECTION (2), AND IN ORDER TO IMPLEMENT THE PROVISIONS OF THIS PART 5 ON OR BEFORE JULY 1, 1996, AS CONTEMPLATED IN SAID PARAGRAPH (a), THE COMMISSION SHALL REQUIRE THAT ANY TELECOMMUNICATIONS SERVICE PROVIDER THAT WILL PROVIDE UNBUNDLED FACILITIES OR FUNCTIONS, INTERCONNECTION, SERVICES FOR RESALE, OR LOCAL NUMBER PORTABILITY PURSUANT TO THE RULES ADOPTED UNDER SAID PARAGRAPH (a) SHALL FILE AN ADVICE LETTER WITH THE COMMISSION TO PLACE INTO EFFECT TARIFFS CONTAINING TEMPORARY INTERIM RATES, TERMS, AND CONDITIONS OF SALE FOR THOSE SERVICES. IN CONNECTION WITH THE FILING OF SUCH TARIFFS, THE COMMISSION SHALL INITIATE A TEMPORARY OR EMERGENCY PROCEEDING, PURSUANT TO THE AUTHORITY GRANTED IN SECTION 40-2-108 (2) OR IN ARTICLE 6 OF THIS TITLE, HAVING AS ITS OBJECTIVE THE ISSUANCE OF ORDERS APPROVING SUCH TARIFFS AS FILED OR AS MODIFIED BY THE COMMISSION AND ALLOWING SUCH FILED OR MODIFIED TARIFFS TO GO INTO EFFECT ON OR BEFORE JULY 1, 1996, SUBJECT TO TRUE-UP AND PENDING THE EFFECTIVENESS OF COMMISSION TARIFFS AS CONTEMPLATED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (g) OR OF INTERCONNECTION AGREEMENTS ADOPTED BY NEGOTIATION OR ARBITRATION AND

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

APPROVED BY THE COMMISSION PURSUANT TO 47 U.S.C. SEC. 252 (e), WHICHEVER FIRST OCCURS.

(II) IMMEDIATELY UPON THE ISSUANCE OF ORDERS APPROVING TEMPORARY INTERIM TARIFFS PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (g), THE COMMISSION SHALL INITIATE A PROCEEDING UNDER SECTION 40-6-111, HAVING AS ITS OBJECTIVE THE ADOPTION OF COMMISSION TARIFFS AND THE ISSUANCE OF ORDERS TO EFFECTUATE ANY NECESSARY TRUE-UP. FOR PURPOSES OF THIS SUBPARAGRAPH (II), THE COMMISSION MAY, BUT NEED NOT, SUSPEND ANY RATE, FARE, TOLL, RENTAL, CHARGE, CLASSIFICATION, CONTRACT, PRACTICE, RULE, OR REGULATION AS PROVIDED IN SECTION 40-6-111.

(III) COMMISSION TARIFFS ADOPTED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (g) SHALL SUPERSEDE THE TEMPORARY INTERIM TARIFFS ADOPTED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (g). INTERCONNECTION AGREEMENTS ADOPTED BY NEGOTIATION OR ARBITRATION AND APPROVED BY THE COMMISSION PURSUANT TO 47 U.S.C. SEC. 252(e) SHALL SUPERSEDE BOTH THE TEMPORARY INTERIM TARIFFS AND THE COMMISSION TARIFFS, BUT ONLY WITH REGARD TO THE SPECIFIC SERVICES COVERED BY SUCH AGREEMENTS AND ONLY TO THE EXTENT THAT THE TERMS OF SUCH AGREEMENTS ARE HELD APPLICABLE TO PERSONS OTHER THAN THE PARTIES TO THE AGREEMENTS.

(IV) (A) IN DEVELOPING TEMPORARY INTERIM TARIFFS, TELECOMMUNICATIONS SERVICE PROVIDERS AND THE COMMISSION SHALL MAKE EVERY EFFORT TO ENSURE THAT THE RATES, TERMS, AND CONDITIONS OF SALE TO BE SET FORTH IN SUCH TARIFFS ARE BASED ON COST AND ARE NONDISCRIMINATORY. SUCH RATES, TERMS, AND CONDITIONS MAY INCLUDE A REASONABLE PROFIT.

(B) IN ADOPTING COMMISSION TARIFFS, THE COMMISSION SHALL DETERMINE WHETHER THE RATES, TERMS, AND CONDITIONS OF SALE TO BE SET FORTH IN SUCH TARIFFS ARE BASED ON COST AND ARE NONDISCRIMINATORY. SUCH RATES, TERMS, AND CONDITIONS OF SALE MAY INCLUDE A REASONABLE PROFIT.

(V) AS USED IN THIS PARAGRAPH (g), "TRUE-UP" MEANS RECOVERY OF THE DIFFERENCE BETWEEN:

(A) THE RATES PAID UNDER TEMPORARY INTERIM TARIFFS BEFORE THE ADOPTION OF COMMISSION TARIFFS OR, IF INTERCONNECTION AGREEMENTS AS CONTEMPLATED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (g) ARE IN EFFECT, THE RATES PAID UNDER TEMPORARY INTERIM TARIFFS BEFORE THE EFFECTIVE DATES OF SUCH AGREEMENTS; AND

(B) THE RATES THAT WOULD HAVE BEEN PAID DURING THE SAME TIME PERIOD HAD THE COMMISSION TARIFFS OR INTERCONNECTION AGREEMENTS BEEN IN EFFECT INSTEAD OF SUCH TEMPORARY INTERIM TARIFFS.

(VI) TRUE-UP SHALL BE ACCOMPLISHED BY MEANS OF LUMP-SUM CASH PAYMENTS UNLESS THE COMMISSION ORDERS ANOTHER METHOD OF PAYMENT. IF THE COMMISSION ORDERS A REFUND OR AN ADDITIONAL PAYMENT TO BE MADE AT THE TIME OF TRUE-UP, SUCH REFUND OR ADDITIONAL PAYMENT SHALL BE PAID WITH INTEREST AT A RATE TO BE DETERMINED BY THE COMMISSION.

(VII) IN CONDUCTING A TEMPORARY OR EMERGENCY PROCEEDING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (g), THE COMMISSION SHALL USE ITS BEST EFFORTS TO AFFORD ALL PARTIES DUE PROCESS AND TO BASE ITS ORDERS ON THE MOST RELIABLE EVIDENCE AVAILABLE, TAKING INTO ACCOUNT THE TIME CONSTRAINTS INVOLVED. WHEN PROCEEDING UNDER ARTICLE 6 OF THIS TITLE, THE COMMISSION MAY SHORTEN ANY TIME PERIOD SET FORTH IN SAID ARTICLE 6 AS REASONABLY NECESSARY TO HAVE TARIFFS IN EFFECT BY JULY 1, 1996.

(VIII) IN ALL PROCEEDINGS INITIATED PURSUANT TO THIS PARAGRAPH (g), THE BURDEN OF PROOF SHALL BE ON THE TELECOMMUNICATIONS SERVICE PROVIDER.

(IX) THE FOLLOWING ENTITIES SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS PARAGRAPH (g):

(A) A BASIC LOCAL EXCHANGE PROVIDER THAT SERVES ONLY RURAL EXCHANGES OF TEN THOUSAND OR FEWER ACCESS LINES;

(B) AS TO THE INTERIM RATES, A COLLEGE OR VOCATIONAL SCHOOL, AS DEFINED IN SECTION 23-3-103, C.R.S.

(h) THE COMMISSION SHALL REQUIRE BY RULE THAT ANY TELECOMMUNICATIONS SERVICE PROVIDER REQUIRED TO FILE TEMPORARY INTERIM TARIFFS PURSUANT TO PARAGRAPH (g) OF THIS SUBSECTION (2) AND, TO THE EXTENT SUCH A REQUIREMENT IS PERMISSIBLE UNDER FEDERAL LAW, ANY BASIC LOCAL EXCHANGE PROVIDER THAT SERVES ONLY RURAL EXCHANGES OF TEN THOUSAND OR FEWER ACCESS LINES AND THAT HAS RECEIVED A BONA FIDE REQUEST FOR INTERCONNECTION SHALL FILE ADVICE LETTERS WITH THE COMMISSION TO PLACE INTO EFFECT TEMPORARY INTERIM TARIFFS AND COMMISSION TARIFFS FOR UNBUNDLED FACILITIES OR FUNCTIONS, INTERCONNECTION, SERVICES FOR RESALE, OR LOCAL NUMBER PORTABILITY BY SUCH DATES CERTAIN AS THE COMMISSION MAY DETERMINE BY RULE.

SECTION 2. 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: May 15, 1996