

CHAPTER 194

GOVERNMENT - LOCAL

HOUSE BILL 08-1249

BY REPRESENTATIVE(S) Rice, Merrifield, and Scanlan;
also SENATOR(S) Kester, Gibbs, Romer, and Williams.

AN ACT

CONCERNING THE EMERGENCY TELEPHONE SERVICES CHARGE.

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

SECTION 1. 29-11-101 (3), (7), and (8), Colorado Revised Statutes, are amended, and the said 29-11-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

29-11-101. Definitions. As used in this article, unless the context otherwise requires:

(3) "Exchange access facilities" means the access ~~as defined in the tariffs approved by the public utilities commission~~, from a specific customer's premises to the telecommunications network to effect the transfer of information.

(4.3) "INTERCONNECTED VOICE-OVER-INTERNET-PROTOCOL SERVICE" MEANS A SERVICE THAT:

- (a) ENABLES REAL-TIME, TWO-WAY VOICE COMMUNICATIONS;
- (b) REQUIRES A BROADBAND CONNECTION FROM THE SERVICE USER'S LOCATION;
- (c) REQUIRES INTERNET PROTOCOL-COMPATIBLE CUSTOMER PREMISES EQUIPMENT; AND
- (d) PERMITS SERVICE USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED TELEPHONE NETWORK.

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

(7) "Service supplier" means ~~any~~ A person providing exchange telephone services, ~~and any~~ A person providing telecommunications service via wireless carrier, AND A PERSON PROVIDING INTERCONNECTED VOICE-OVER-INTERNET-PROTOCOL SERVICE to any service user in this state, either directly or by resale.

(8) "Service user" means ~~any~~ A person who is provided exchange telephone service, ~~and any~~ A person who is provided telecommunications service via wireless carrier, AND A PERSON WHO IS PROVIDED INTERCONNECTED VOICE-OVER-INTERNET-PROTOCOL SERVICE in this state.

SECTION 2. 29-11-102 (2) (a), (2) (c), (5), and (6), Colorado Revised Statutes, are amended to read:

29-11-102. Imposition of charge - liability of user for charge - collection - uncollected amounts - rules. (2) (a) The governing body is hereby authorized, by ordinance in the case of cities and by resolution in the case of counties or special districts, to impose such charge in an amount not to exceed seventy cents per month per exchange access facility, ~~or~~ per wireless communications access, AND PER INTERCONNECTED VOICE-OVER-INTERNET-PROTOCOL SERVICE in those portions of the governing body's jurisdiction for which emergency telephone service will be provided.

(c) Regardless of the level at which the charge is set, the amount of the charge imposed per exchange access facility, ~~and the amount of the charge imposed~~ per wireless communications access, AND PER INTERCONNECTED VOICE-OVER-INTERNET-PROTOCOL service shall be equal.

(5) The duty to collect OR PAY any charge imposed under the authority of this article ~~from a service user~~ shall commence at such time as may be specified by the governing body. Charges imposed under the authority of this article and required to be collected by the service supplier shall be added to and may be stated separately in the billings, IF ANY, to the service user.

(6) The service supplier shall have no obligation to take any legal action to enforce the collection of any charge imposed under the authority of this article. Such action may be brought by or in behalf of the public agency imposing the charge or the separate legal entity formed pursuant to paragraph (b) of subsection (1) of this section. The service supplier shall annually provide the governing body a list of the amounts uncollected along with the names and addresses of those service users ~~which~~ THAT carry a balance that can be determined by the service supplier to be the nonpayment of any charge imposed under the authority of this article. The service supplier shall not be held liable for such uncollected amounts THAT HAVE BEEN BILLED TO THE SERVICE USER.

SECTION 3. 29-11-103 (1) and (3) (a), Colorado Revised Statutes, are amended to read:

29-11-103. Remittance of charge to governing body - administrative fee - establishment of rate of charge. (1) Any charge imposed under the authority of this article and the amounts required to be collected OR PAID are to be remitted monthly. The amount of the charge collected OR PAID in one month by the service

supplier shall be remitted to the governing body no later than thirty days after the close of that month. On or before the sixtieth day of each calendar quarter, a return for the preceding quarter shall be filed with the governing body in such form as the governing body and service supplier shall agree upon. The service supplier required to file the return shall deliver the return, together with a remittance of the amount of the charge payable, to the office of the governing body. The service supplier shall maintain a record of the amount of each charge collected pursuant to this article. Such record shall be maintained for a period of one year after the time the charge was collected.

(3) (a) At least once each calendar year, the governing body shall establish a rate of charge, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this article. Amounts collected in excess of such necessary expenditures within a given year shall be carried forward to subsequent years and shall be used in accordance with section 29-11-104 (2). ~~The governing body shall make its determination of~~ IMMEDIATELY UPON DETERMINING such rate, ~~each year no later than September 1 and shall fix the new rate to take effect commencing with the first billing period of each customer on or following the next January 1.~~ Immediately upon its making such determination and fixing such rate, the governing body shall publish in its minutes the new rate, and IF THE RATE HAS BEEN CHANGED FROM THE PRIOR RATE, it shall notify by registered mail every service supplier at least ~~ninety~~ SIXTY days before such new rate will become effective.

SECTION 4. 29-11-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

29-11-104. Agreements or contracts for emergency telephone service - use of funds collected. (5) EACH GOVERNING BODY SHALL INCLUDE AS A PART OF THE AUDIT REQUIRED BY PART 6 OF ARTICLE 1 OF THIS TITLE AN AUDIT ON THE USE OF THE FUNDS COLLECTED FROM THE CHARGES IMPOSED PURSUANT TO THIS ARTICLE FOR COMPLIANCE WITH PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION. A COPY OF EACH AUDIT REPORT SHALL BE MADE AVAILABLE ON THE GOVERNING BODY'S WEB SITE IF THE GOVERNING BODY HAS A WEB SITE.

SECTION 5. 39-4-102 (1) (b), Colorado Revised Statutes, is amended to read:

39-4-102. Valuation of public utilities. (1) The administrator shall determine the actual value of the operating property and plant of each public utility as a unit, giving consideration to the following factors and assigning such weight to each of such factors as in the administrator's judgment will secure a just value of such public utility as a unit:

(b) Its intangibles, such as special privileges, franchises, contract rights and obligations, and rights-of-way; except that licenses granted by the federal communications commission to a wireless carrier, as defined in section 29-11-101, ~~(13)~~; C.R.S., shall not be considered, nor shall the value of such licenses be reflected, in the administrator's valuation of the carrier's tangible property;

SECTION 6. 39-22-611, Colorado Revised Statutes, is amended to read:

39-22-611. Property exempt from ad valorem taxes. Notwithstanding any other provisions of law, all intangible personal property, whether or not owned by a resident of Colorado, and whether or not such property or evidence thereof is situated or held or has its legal situs within the state, shall be exempt from ad valorem tax imposed by the state of Colorado, or by any political subdivision thereof; but nothing in this section shall be construed to repeal, or in any way affect, the use or inclusion of intangible property other than licenses granted by the federal communications commission to a wireless carrier, as defined in section 29-11-101, ~~(13)~~; C.R.S., as a factor in arriving at the valuation of public utility property assessed by the property tax administrator under provisions of articles 1 to 13 of this title.

SECTION 7. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 25, 2008