

CHAPTER 151

PUBLIC UTILITIES

HOUSE BILL 14-1330

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AN ACT

CONCERNING AN UPDATE OF TELECOMMUNICATIONS TERMINOLOGY FOR INTRASTATE TELECOMMUNICATIONS SERVICES.

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

SECTION 1. In Colorado Revised Statutes, 40-15-102, **amend** (8), (11), (12), (18), (21), (28), and (31) introductory portion; **repeal** (1), (23) (b), and (30); and **add** (5.5) and (8.5) as follows:

40-15-102. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Access" means special access and switched access.~~

(5.5) "COMPETITIVE LOCAL EXCHANGE CARRIER" OR "CLEC" MEANS A LOCAL EXCHANGE PROVIDER THAT IS NOT THE INCUMBENT LOCAL EXCHANGE CARRIER IN AN IDENTIFIED EXCHANGE AREA.

(8) "Exchange area" means a geographic area established by the commission ~~which consists of one or more central offices together with associated facilities which are~~ THAT IS used in providing basic local exchange service.

(8.5) "FCC" MEANS THE FEDERAL COMMUNICATIONS COMMISSION.

(11) "Interexchange provider" means a person who provides INTEREXCHANGE telecommunications ~~services between exchange areas~~ SERVICE.

(12) "Interexchange telecommunications ~~services~~ SERVICE" means telephone

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

~~services; SERVICE BETWEEN EXCHANGE AREAS THAT IS not included in basic local exchange service. and which are priced based upon usage.~~

(18) "Local exchange provider" OR "LOCAL EXCHANGE CARRIER" means any person authorized by the commission to provide basic local exchange service.

(21) "Premium services" means any enhanced or improved product or service offered by a telecommunications SERVICE provider ~~which~~ THAT is not functionally required for the provision of basic local exchange or interexchange service and ~~which~~ THAT the customer may purchase at his OR HER option.

(23) (b) ~~"Private telecommunications network" also includes:~~

~~(I) Any telecommunications service, the operation, facilities, or premises of which are or may be shared by energy utilities, used solely and exclusively by and for such utilities and not for resale, directly or indirectly; and~~

~~(II) A telecommunications service owned or leased by a college, as defined in section 23-3-103 (1), C.R.S., used solely and exclusively by and for such college and not for resale, directly or indirectly, for the purpose of providing services to:~~

~~(A) Students residing in housing owned by or affiliated with such college; students registered and enrolled at such college, and invited guests of such students; or~~

~~(B) Faculty, staff, or concessionaires of such college or the invited guests of such faculty, staff, or concessionaires.~~

(28) "Switched access" means the services or facilities furnished by a ~~local exchange company~~ TELECOMMUNICATIONS PROVIDER to interexchange providers ~~which~~ THAT allow them to use the basic exchange network for origination or termination of interexchange telecommunications ~~services~~ SERVICE.

(30) ~~"Toll reseller" means a person who provides toll services to end-use customers by using the transmission facilities, including without limitation wire, cable, optical fiber, or satellite or terrestrial radio signals, of another person. A toll reseller may, but need not, possess its own switching facilities.~~

(31) "Toll service" means a type of telecommunications service, commonly known as long-distance service, that is provided on an intrastate basis ~~between LATAs and within LATAs~~ and that is:

SECTION 2. In Colorado Revised Statutes, 40-15-113, **amend** (1) introductory portion and (1) (c) as follows:

40-15-113. Unauthorized charge for services. (1) A provider of telecommunications ~~services~~ SERVICE shall not engage in the following activities:

(c) When providing billing services for a telecommunications provider, knowingly or recklessly participating in charging or billing a customer for goods or services without the customer's authorization to add ~~such~~ THE goods or services to

the customer's bill; except that, in accordance with federal law, this paragraph (c) shall DOES not apply to a provider of wireless CMRS services.

SECTION 3. In Colorado Revised Statutes, 40-15-302, **amend** (5) as follows:

40-15-302. Manner of regulation - rules. (5) Consistent with the provisions of section 40-15-301 (1), rates for nonoptional operator services shall MUST allow the provider of such THE services the opportunity to earn a just and reasonable return on the associated used and useful investment, including but not limited to equipment costs incurred to originate such THE services. Such THE rates shall be set at or below a single statewide benchmark rate as determined by the commission that is applicable to all providers, unless the commission approves a higher rate. The statewide benchmark rate shall MUST apply to all nonoptional operator services regardless of whether such THE services are provided in connection with intraLATA or interLATA A LOCAL EXCHANGE OR INTEREXCHANGE telecommunications service. If the commission approves a rate higher than the benchmark rate, and the commission determines that disclosure of the rate to customers is in the public interest, the commission may require the nonoptional operator services provider to orally disclose, to the person responsible for payment of the telephone call, the total charges for the call and that such THE charges are higher than the benchmark rate. The nonoptional operator services provider shall make such THE disclosure at no charge to the caller and before the call is connected, allowing the caller to disconnect before incurring any charges. If the commission finds, after notice and opportunity for a hearing, that a nonoptional operator services provider has violated this subsection (5), the commission may, in addition to such other enforcement powers as may be authorized in this title, order any regulated telecommunications service provider to block access to the nonoptional operator services provider for all intrastate operator-handled calls. A regulated telecommunications provider that blocks the access of a nonoptional operator services provider in compliance with an order of the commission and incurs attorney fees or costs to defend such THE action shall be IS entitled to recover its costs and attorney fees in each such proceeding. The commission shall promulgate rules necessary to implement this subsection (5).

SECTION 4. In Colorado Revised Statutes, 40-15-302.5, **amend** (1) introductory portion, (1) (a), (1) (b), (1) (c), (2), and (3) as follows:

40-15-302.5. Resellers of toll services - registration required. (1) Toll resellers INTEREXCHANGE PROVIDERS shall register with the commission in a form satisfactory to the commission. Such A registration shall MUST include, at a minimum, the following information updated within fifteen days after any change:

- (a) The toll reseller's INTEREXCHANGE PROVIDER'S name and complete address;
- (b) All names under which the toll reseller INTEREXCHANGE PROVIDER does business;
- (c) All names and identification numbers under which the toll reseller INTEREXCHANGE PROVIDER has registered with the Colorado secretary of state or the Colorado department of revenue;

(2) Toll resellers who register AN INTEREXCHANGE PROVIDER THAT REGISTERS

in accordance with subsection (1) of this section ~~shall be~~ is exempt from regulation by the commission except as otherwise provided in this section.

(3) For the purpose of enforcing section 40-15-112, the commission may exercise any of the powers conferred under articles 1 to 7 of this title against ~~a toll reseller~~ AN INTEREXCHANGE PROVIDER and, in cases of complaints filed under section 40-6-108, may order ~~a toll reseller~~ AN INTEREXCHANGE PROVIDER to make due reparations to the complaining party.

SECTION 5. In Colorado Revised Statutes, 40-15-305, **amend** (1) (b) (II) as follows:

40-15-305. Time period for consideration of deregulation of emerging competitive telecommunications service. (1) (b) In determining whether effective competition for a specific telecommunications service exists, the commission shall make findings, after notice and opportunity for hearing, and shall issue an order based upon consideration of the following factors as the commission deems applicable in particular cases:

(II) The number of other ~~providers~~ ENTITIES offering similar services;

SECTION 6. In Colorado Revised Statutes, 40-15-502, **amend** (2), (3) (a), (3) (b) (I), (3) (b) (IV) (B), and (4) as follows:

40-15-502. Expressions of state policy. (2) **Basic service.** Basic service is the availability of high quality, minimum elements of LOCAL EXCHANGE telecommunications ~~services~~ SERVICE, as defined by the commission, at just, reasonable, and affordable rates to all people of the state of Colorado. The commission shall conduct a proceeding ~~when appropriate, but no later than July 1, 1999,~~ and no less frequently than every three years to consider the revision of the definition of basic service, with the goal that every citizen of this state shall have access to a wider range of services at rates that are reasonably comparable as between urban and rural areas.

(3) **Universal basic service - affordability of basic service.** (a) The commission shall require the furtherance of universal basic service, toward the ultimate goal that basic service be available and affordable to all citizens of the state of Colorado. The general assembly acknowledges the use of low-income telephone assistance programs, including ~~but not limited to~~ "life-line" and "link-up", and telecommunications relay services for disabled telephone users to further the goal of universal service. The commission ~~shall have the authority to~~ MAY regulate providers of telecommunications services to the extent necessary to assure that universal basic service is ~~provided~~ AVAILABLE to all consumers in the state at fair, just, and reasonable rates.

(b) (I) Consistent with the public interest goal of maintaining affordable, ~~and~~ just, and reasonably priced basic local ~~telecommunications~~ EXCHANGE service for all citizens of the state, the commission shall structure telecommunications regulation to achieve a transition to a fully competitive telecommunications market with the policy that prices for residential basic local exchange service, including zone charges, if any, do not rise above the levels determined by the commission.

(IV) (B) If there are areas within a provider's base rate area, as determined by the commission, that are receiving subsidies, ~~such~~ THOSE areas may continue to receive subsidies or be eligible for funding under the universal service support funding mechanisms ~~after July 1, 1996~~, at the commission's discretion.

(4) **Universal access to advanced service.** The general assembly acknowledges the goal of universal access to advanced service to all ~~telecommunications consumers in~~ CITIZENS OF this state. The commission shall consider the impact of opening entry to the local exchange market and shall determine whether additional support mechanisms may be necessary to promote this goal if competition for local exchange services fails to deliver advanced services in all areas of the state.

SECTION 7. In Colorado Revised Statutes, 40-15-503, **amend** (2) (e); and **repeal** (1), (2) (a), (2) (b), (2) (g) (I), (2) (g) (II), (2) (g) (III), (2) (g) (IV) (A), and (2) (g) (VII) as follows:

40-15-503. Opening of competitive local exchange market - process of negotiation and rule-making - issues to be considered by commission.

~~(1) Commencing on or before May 24, 1995, and concluding on or before January 1, 1996, members of the working group identified in section 40-15-504 shall meet and attempt to reach consensus on proposed rules to be submitted to the commission for consideration and adoption as appropriate to implement section 40-15-502 (1).~~

~~(2) (a) On or before January 1, 1996, the commission shall initiate rule-making proceedings to implement section 40-15-502 (1). Rules adopted in such proceedings shall become effective on or before July 1, 1996. The commission shall grant substantial deference to the proposals submitted by the working group under subsection (1) of this section in regard to issues on which the working group reports it has reached consensus. Said rules shall be designed to foster and encourage the emergence of a competitive telecommunications marketplace and may include more active regulation of one provider than another or the imposition of geographic limits or other conditions on the authority granted to a provider. In addition, in adopting such rules, the commission shall consider the differences between the economic conditions of rural and urban areas.~~

~~(b) In adopting rules under paragraph (a) of this subsection (2), the commission shall adopt rules governing, and shall establish methods of paying for, without limitation, the following:~~

~~(I) Cost-based, nondiscriminatory carrier interconnection to essential facilities or functions, which shall be unbundled;~~

~~(II) Cost-based number portability and the competitively neutral administration of telephone numbering plans;~~

~~(III) Cost-based, open network architecture;~~

~~(IV) Terms and conditions for resale of services that enhance competition;~~

~~(V) Appropriate means of assessing, collecting, and distributing contributions to the Colorado high cost administration fund created in section 40-15-208 and any~~

~~other financial support mechanisms adopted by the commission under section 40-15-502 (4); and~~

~~(VI) Access to emergency 911 service.~~

(e) Applications for certificates of public convenience and necessity to provide basic local exchange service pursuant to this subsection (2) may be filed with the commission at any time. ~~after the effective date of the rules required.~~ A person that, on or before January 1, 1995, held a certificate of public convenience and necessity to provide basic local exchange service under part 2 of this article and who still holds such THE certificate shall continue to have such authority without having to apply NEED NOT REAPPLY to the commission for additional or continued authority. ~~No~~ A provider of local exchange services shall NOT operate in this state without a certificate of public convenience and necessity.

(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 (H) of this paragraph (g) or of interconnection agreements adopted by negotiation or arbitration and 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 (H) 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.~~

~~(VII) In conducting a temporary or emergency proceeding under subparagraph (f) 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.~~

SECTION 8. 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 9, 2014