

CHAPTER 15 - TELECOMMUNICATIONS

ARTICLE 1 - GENERAL PROVISIONS

37-15-101. Short title; sunset.

(a) This chapter shall be known as the "Wyoming Telecommunications Act."

(b) This chapter is repealed effective July 1, 201~~9~~⁵.

37-15-102. Repealed By Laws 2007, Ch. 142, 2.

37-15-103. Definitions.

(a) As used in this chapter:

(i) "Affiliated telecommunications companies" means telecommunications companies:

(A) In which five percent (5%) or more of the voting stock is controlled or owned, directly or indirectly, by a common principal; or

(B) Whose management and policies are found by the commission, after notice and opportunity for hearing, to be controlled by a common principal.

(ii) "Commission" means the public service commission of Wyoming;

(iii) "Competitive telecommunications services" means those services found by the legislature or the commission to be competitive in accordance with W.S. 37-15-202;

(iv) "Essential telecommunications service" means a customer's access to service that is necessary for the origination or termination, or both, of two-way, switched telecommunications for both residential and business service within a local exchange area. Essential telecommunications services are limited to:

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

(B) Single line flat-rate or single line measured residence or business voice service;

(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;

(E) Switched access, which for the purposes of this chapter shall mean the switching and transport necessary to connect an interexchange telecommunications company with the local

exchange central office for the purpose of originating or terminating, or both, the interexchange telecommunications company's switched telecommunications service.

(v) "Interexchange telecommunications company" means a person providing telecommunications service to connect end users located in different local exchange areas, but excluding companies which also provide noncompetitive local exchange services.

(vi) Repealed By Laws 2007, Ch. 142, 2.

(vii) "Local exchange area" means a geographic territorial unit established by the commission for providing telecommunications services;

(viii) "Local exchange service" means the provision of essential telecommunications service within a local exchange area;

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

(x) "Price" means any rate or charge set and published in accordance with this chapter and collected by the telecommunications company for any telecommunications service offered by it to the public or other telecommunications companies;

(xi) "Telecommunications company" means a person engaged in the furnishing of telecommunications service within this state;

(xii) "Telecommunications service" means the offering or transmitting for hire of telecommunications by means of telecommunications facilities using wire, radio, lightwave or other means;

~~(xiii) "Total service long-run incremental cost" means the total forward-looking cost, using least cost technology, for a telecommunications service or basic network function that the telecommunications provider would incur if it were to initially offer such telecommunications service or basic network function;~~

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

(xv) "Video dial tone service" means the transmission of entertainment video programming and other forms of two-way, interactive video programming using a common video dial tone platform;

(xvi) "Supported services" means the services or functionalities which shall be supported by the state universal service fund pursuant to W.S. 37-15-502, as described in subparagraphs (A) and (B) of this paragraph:

(A) The services designated for support are for residential service and consist of:

(I) Voice grade access to the public switched network. "Voice grade access" is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. ~~For the purposes of this subparagraph, bandwidth for voice grade access shall be, at a minimum, three hundred (300) to three thousand (3,000) Hertz;~~

(II) Local usage. "Local usage" means an amount of minutes of use of exchange service, prescribed by the commission, provided free of charge to end users;

(III) Dual tone multi-frequency signaling or its functional equivalent. "Dual tone multi-frequency" is a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time;

(IV) Single-party service or its functional equivalent. "Single-party service" is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;

(V) Access to emergency services. "Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911," to call emergency services through a public safety answering point operated by the local government. "Enhanced 911" is defined as 911 service that includes the ability to provide automatic numbering information, which enables the public safety answering point to call back if the call is disconnected, and automatic location information, which permits emergency service providers to identify the geographic location of the calling party. "Access to emergency services" includes access to 911 and enhanced 911 services in accordance with applicable governing authority;

(VI) Access to operator services. "Access to operator services" is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;

(VII) Access to interexchange service. "Access to interexchange service" is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;

(VIII) Access to directory assistance. "Access to directory assistance" is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and

(IX) Toll limitation for qualifying low-income consumers.

(B) The commission may grant a company additional time to complete the network upgrades needed to provide ~~single party service~~, access to enhanced 911 service, or toll limitation. If such petition is granted, the otherwise eligible company will be permitted to receive universal service support for the duration of the period designated by the commission. The commission shall grant such a request only upon a finding that exceptional circumstances prevent an otherwise eligible company from providing ~~single party service~~, access to enhanced 911 service or toll limitation. The period should extend only as long as the commission finds that exceptional circumstances exist and shall not extend beyond the time that the commission deems necessary for that company to complete network upgrades. An otherwise eligible company that is incapable of offering one (1) or more of these ~~two~~ (2~~3~~) specific supported services must demonstrate to the commission that exceptional circumstances exist with respect to each service for which the carrier desires a grant of additional time to complete network upgrades.

(xvii) "Landline carrier" means a telecommunications company providing local exchange service, or its functional equivalent, to retail end users by means primarily of its own fiber, copper, electric lines or coaxial cable facilities.

(b) Repealed By Laws 2007, Ch. 142, 2.

37-15-104. Services not regulated by this title.

(a) Except for ~~contributions to the universal service fund required pursuant to W.S. 37-15-501 and~~ the assessment levied pursuant to W.S. 37-2-106 through 37-2-109, telecommunications service does not include, and the provisions of this title do not apply to:

(i) One-way transmission of radio or television signals for broadcast purposes, including the one-way transmission of video programming by a cable television or other system as well as subscriber interaction which is required for the selection of video programming;

(ii) Home and business and coinless, or coin operated public or semipublic telephone terminal equipment, and the use, location and charges for the use of such equipment;

(iii) Any billing and collection services;

(iv) Any inside wire and premise cable installation and maintenance;

(v) Directory services, except as provided in W.S. 37-12-130;

(vi) Telecommunications services using radio spectrum, cellular, or other wireless technology except as set forth in subparagraphs (A) ~~and~~, (B) ~~and (C)~~ of this paragraph:

~~(A) The quality of cellular service to the extent not preempted by federal law;~~

~~(AB)~~ To the extent permitted in accordance with the requirements set forth in federal law, consideration and determination of an application for designation as a federal eligible telecommunications carrier;

~~(BC)~~ Determinations of eligibility for and amount of distribution of state universal service funds by the commission for supported services in accordance with W.S. 37-15-502.

(vii) Video dial tone and multimedia services;

(viii) Private telecommunications networks, which for the purposes of this act shall mean a system for the provision of telecommunications service by a person or entity for the sole and exclusive use of the person or entity and not for resale directly or indirectly;

~~(ix) Nonvoice data services not operated by a company providing local exchange service;~~

(x) Networks established by a person other than the local exchange company providing essential telecommunications services within the local exchange area to provide access to interexchange carrier services;

(xi) Except as provided in this paragraph, direct inward dial services and other services needed by answering services and paging services. To the extent not preempted by federal law or regulation the commission shall regulate direct inward dial services and other services needed by answering services and paging services as noncompetitive services in any local exchange area until there are at least two (2) telecommunications companies effectively offering direct inward dial and other needed services to the answering services and paging services serving that local exchange area;

(xii) Remote meter reading; and

(xiii) Any other telecommunications service that is not regulated by this title.

(b) In addition to subsection (a) of this section, telecommunications service does not include, and the provisions of this title do not apply to telecommunications services provided by the department of enterprise technology to private health care providers under W.S. 9-2-2906(j).

37-15-105. VoIP and internet protocol enabled services.

(a) As used in this section:

(i) "Internet protocol enabled service" or "IP enabled service" means any service, capability, functionality or application, other than "voice over internet protocol service," (VoIP) using existing internet protocol, or any successor internet protocol, that enables an end user to send or receive a communication in existing internet protocol format, or any successor internet protocol

format, utilizing a broadband connection at the end user's location, regardless of whether the communication is voice, data or video;

(ii) "Voice over internet protocol service" means any service that:

(A) Enables real time, two-way voice communication originating from or terminating at the user's location in internet protocol or a successor protocol;

(B) Utilizes a broadband connection at the user's location; and

(C) Permits a user to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

(b) The commission shall not regulate IP enabled service or voice over internet protocol service. Nothing in this section affects or modifies:

(i) Any applicable wholesale tariff or any commission authority to implement or enforce any rights, duties or obligations of any party related to wholesale services;

(ii) Any entity's obligations or rights or commission authority under sections 251 and 252 of the Federal Communications Act of 1934, 47 U.S.C. 251 and 252;

(iii) Any commission jurisdiction over intrastate switched access rates, terms and conditions, including the implementation of federal law with respect to intercarrier compensation;

(iv) Any obligation for the provision of video or cable service by any entity under applicable law;

(v) Any commission jurisdiction or authority pursuant to W.S. 37-15-401(a)(vii), including but not limited to commission jurisdiction or authority to address federal high cost fund or federal universal service fund issues;

(vi) Any obligation to offer essential telecommunications service as regulated by the commission in other sections of this chapter.

(c) If a service provider voluntarily chooses to receive Wyoming universal service funds to support voice over internet protocol service that otherwise qualifies for support pursuant to W.S. 37-15-501 or 37-15-502, then that supported voice over internet protocol service shall be subject to all laws and rules governing the receipt of such funds, and the support provided to those services shall not exceed the support that would be provided to eligible noncompetitive essential local exchange services on a per-access-line basis.

(d) Voice over internet protocol service shall be subject to the following:

(i) ~~Any required assessments under W.S. 37-15-501 and 37-15-502;~~

(ii) Any required assessment of 911 or E911 emergency service taxes under W.S. 16-9-101 through 16-9-105;

(iii) Any required special fee under W.S. 16-9-209; or

(iii*) Any required assessment levied under W.S. 37-2-106 through 37-2-109.

ARTICLE 2 - REGULATION OF COMPETITIVE AND NONCOMPETITIVE MARKETS

37-15-201. Regulation of local exchange services; certificates of public convenience and necessity; concurrent certificates.

(a) Except for those telecommunications companies that as of July 1, 2007, have a valid certificate of public convenience and necessity previously issued by the commission to provide local exchange services in the state, all telecommunications companies seeking to offer and provide local exchange service shall obtain a certificate of public convenience and necessity from the commission prior to providing that service in this state.

(b) The commission shall grant a certificate or certificates of public convenience and necessity to provide local exchange service if it finds, after notice and opportunity for hearing, that the applicant possesses sufficient technical, financial and managerial resources to provide safe, adequate and reliable local exchange services within the identified geographic area.

(c) Repealed By Laws 2007, Ch. 142, 2.

(d) Repealed By Laws 2007, Ch. 142, 2.

(e) Repealed By Laws 2007, Ch. 142, 2.

(f) Repealed By Laws 2007, Ch. 142, 2.

(g) Repealed By Laws 2007, Ch. 142, 2.

(h) Repealed By Laws 2007, Ch. 142, 2.

37-15-202. Determination of competitive services.

(a) Upon petition by any telecommunications company or pursuant to the commission's own motion, the commission may, after notice and opportunity for hearing, find and conclude that a telecommunications service is subject to competition. Any service found to be effectively competitive shall not be subject to regulation of prices by the commission and shall not be eligible for support otherwise available pursuant to Article 5 of this Chapter. The commission shall consider only the following factors in determining whether a telecommunications service is subject to effective competition:

(i) The extent to which telecommunications services are available from alternative providers including, but not limited to, wireless providers, cable providers offering voice services, voice over internet protocol or any other providers utilizing telephone numbers to provide voice services in the relevant market;

(ii) The extent to which telecommunications services of alternative providers are functionally equivalent, for equivalent service or in combination with other services, and may be substituted at reasonably comparable prices, terms and conditions;

(iii) Existing economic, regulatory or technological barriers to entry.

(b) Upon the commission's own motion or the petition of any person, the commission may, after notice and the opportunity for a hearing in accordance with the Wyoming Administrative Procedure Act, find and conclude that a telecommunications service found to be competitive under subsection (a) of this section is no longer subject to competition, and therefore not subject to treatment as a competitive service under this chapter. All hearings conducted pursuant to this subsection shall place the burden of proof upon the commission or the petitioner of establishing that a telecommunications service is no longer subject to competition.

(c) Telecommunications service provided by new entrants, local exchange services provided by resale, telecommunications services provided by interexchange telecommunications companies, interexchange telecommunications services and telecommunications services other than local exchange service and switched access provided by a local exchange company shall be considered subject to competition for purpose of regulation under this title. Notwithstanding the foregoing, local exchange service may be determined to be effectively competitive pursuant to subsection (a).

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

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

(ii) At least seventy-five percent (75%) of the class of customers in the area have access to at least one (1) wireless provider unaffiliated with the applicant. If a company does not differentiate between residential and business classes of service in its application, the requirement shall be that at least sixty percent (60%), considering residential and business customers as one (1) class of customers, have access to at least one (1) wireless provider unaffiliated with the applicant;

- (iii) The applicant specifies in the application whether or not the class of customers whose service is to be determined competitive are residential, business or both;
- (iv) The applicant agrees to provide throughout the area prices which do not vary by geographic location or access to competitors;
- (v) The applicant agrees, if residential services are involved and subject to the provisions of subsections (e) and (f) of this section, to continue to provide stand alone basic residential local exchange service at a price less than the price for the stand alone basic residential local exchange service bundled with any other service; and
- (vi) The applicant agrees for a transition period ending July 1, 2009 to provide stand alone basic residential service at a price that does not exceed the price in effect July 1, 2006 and agrees after July 1, 2009 that it will not increase the price for the stand alone basic residential local exchange service by an amount that exceeds the price in effect July 1, 2008, by more than the cumulative increase in the federal gross domestic product price index since July 1, 2008. For the purpose of this subsection the prices in effect July 1, 2006 and July 1, 2009 shall be modified only to reflect changes in access charges as approved by the commission pursuant to W.S. 37-15-203(f)(ii) and (j) to the extent those changes are not reflected in the rates.
- (e) If the price for stand alone basic residential local exchange service is restricted pursuant to subsection (d) of this section, the commission may, upon application and after notice and opportunity for hearing, authorize an increase in the price for the service if the applicant demonstrates that the maximum price allowed pursuant to subsection (d) of this section would not allow the applicant a reasonable opportunity to recover its prudently incurred costs related to the proportion of the property used in providing the essential telecommunications service.
- (f) If a company is required to continue to offer stand alone basic residential local exchange service pursuant to subsection (d) of this section, it may apply to the commission for permission to stop offering the service. The commission shall, after notice and opportunity for hearing approve the application if:
 - (i) A successor agrees to continue the obligation; or
 - (ii) The company establishes to the satisfaction of the commission that the service has become obsolete due to a lack of customers subscribing to the service.
- (g) The commission may, on its own motion or upon application by the office of consumer advocate or by any interested party, find retail telecommunications services are not competitive in any area where it has previously found them to be competitive pursuant to subsection (d) of this section if, after notice and opportunity for hearing, it finds that:
 - (i) Due to merger, acquisition, predatory pricing or marketing practices or withdrawal of offerings, the degree of competition required by subsection (d) of this section no longer exists; or

(ii) The local exchange telecommunications provider has not complied with the conditions it agreed to pursuant to subsection (d) of this section.

37-15-203. Price regulation of noncompetitive essential services.

(a) Prices for telecommunications services which have been determined by the legislature or the commission to be noncompetitive essential telecommunications services shall be regulated by the commission in accordance with this section. The prices for noncompetitive essential telecommunications services of any local exchange company may be adjusted downward at the company's discretion. Except as provided in subsections (e), (f), (h) and (j) of this section, prices for noncompetitive essential telecommunications services shall be subject to a maximum determined by the commission. The initial maximum shall be the local exchange company's price of noncompetitive essential telecommunications services as of July 1, 2006. A local exchange carrier may increase its price for noncompetitive essential telecommunications services to the level of the maximum set under this subsection without approval of the commission as required under subsections (f) and (g) of this section.

(b) Repealed By Laws 2007, Ch. 142, 2.

(c) Repealed By Laws 2007, Ch. 142, 2.

(d) Repealed By Laws 2007, Ch. 142, 2.

(e) A local exchange company may seek approval to make revenue neutral adjustments, considering only revenue from noncompetitive essential telecommunications services, to the price of noncompetitive essential telecommunications services to reduce or eliminate differences in the price of noncompetitive essential telecommunications services in different portions of its service area. A local exchange company shall not use adjustments under this section to increase receipt of state universal service funds or increase switched access prices. This subsection shall not apply retroactively.

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

(i) Changes in the local calling area as approved by the commission;

(ii) Changes in access charges as approved by the commission;

(iii) Other changes affecting noncompetitive essential telecommunications services; or

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

(g) Any requested price change under subsections (b) through (f) of this section, including revenue neutral changes, that may result in an increase in the price of noncompetitive essential telecommunications services is subject to review and determination by the commission, after notice and opportunity for hearing.

(h) The prices of any local exchange company may contain provisions for incentives for improvement of the company's performance or efficiency, lowering of operating costs, control of expenses or improvement and upgrading or modernization of its services or facilities. Any local exchange company may apply to the commission for incentives and innovative or nontraditional price regulation, including price indexing. The commission shall issue a final order approving, modifying or rejecting any application made under this subsection within one hundred eighty (180) days of the filing date of the application with the commission. If no order is issued by the commission within the one hundred eighty (180) day period, the application shall be deemed approved as filed. If during consideration of an application for regulation under this subsection, the commission materially alters the plan as filed in the application, the applying local exchange company may notify the commission in writing, at any time, but not later than sixty (60) days after any final commission order on the application, that it elects not to be price regulated as approved by the order. The local exchange company's prices shall then be regulated as they were prior to the application until such time as a new application is filed, approved and accepted.

(j) Unless as otherwise directed under federal law, noncompetitive switched access shall not be priced above three cents (\$.03) per minute after January 1, 2010. Prices for noncompetitive switched access which exceed three cents (\$.03) per originating and terminating minute shall be reduced to three cents (\$.03) per minute on or before January 1, 2010. Any telecommunications company which must reduce noncompetitive switched access prices under this subsection shall, on or before January 1, 2010, submit a proposed plan to the commission, identifying the amount of intrastate switched access revenues and access lines in the years until the date of filing, to reduce switched access prices in annual increments to meet the requirements of this subsection, and a request for corresponding annual revenue neutral incremental increases to noncompetitive essential service prices to offset the anticipated loss in revenue from a reduction in switched access prices. The commission shall review the proposal and the facts set forth in the proposed plan to ensure that it is accurate and consistent with this section. The telecommunications company shall satisfy any requests for information by the commission, and shall modify the plan as necessary to conform to the facts the commission finds after investigation to be accurate. Once the commission approves the proposed plan, the noncompetitive switched access and noncompetitive essential service prices proposed in the plan shall go into effect after compliance with W.S. 37-15-204. The commission may authorize noncompetitive switched access prices above three cents (\$.03) per minute for an additional transition period not to exceed two (2) years ending January 1, 2012, only upon a showing that access prices are supported by a current total long-run incremental cost study as defined by W.S. 37-15-103(a)(xiii) based upon data after January 1, 2008. A telecommunications company increasing rates pursuant to this subsection may utilize the universal service fund for eligible access lines as provided in W.S. 37-15-501 and 37-15-502 and commission rule and regulation.

37-15-204. Price schedules.

(a) A local exchange company shall file with the commission, in such form and detail as the commission may require, schedules showing all noncompetitive telecommunications services terms, conditions and prices currently in effect and charged to customers by the company in this state. All prices for new noncompetitive telecommunications services, and any increase in prices for noncompetitive telecommunications services as authorized by the commission pursuant to W.S. 37-15-203, shall be filed thirty (30) days prior to the proposed effective date. No price increase for a noncompetitive service shall be effective unless the customer has been given notice by the provider at least one (1) full billing cycle prior to the proposed increase and the increase has been approved by the commission as required by W.S. 37-15-203. No price or price change is effective until filed in accordance with this section. Prices charged for retail competitive services, other than in negotiated contracts, shall be in accordance with a company's price schedule filed with the commission unless a separate contract is negotiated, or at the company's option. ~~Prices for generally offered competitive services may~~ shall be publicly available on a company's website through the internet, ~~the world wide web or a similar proprietary or common carrier or provided to the commission.~~ Price schedules may be filed in electronic format at the option of the company. For purposes of this subsection, the rules, regulations, policies, practices and other requirements relating to services shall be filed with the commission in such form and detail as the commission may require. Rules, regulations, policies, practices and other requirements relating to ~~competitive services shall be subject to the same requirements under this chapter as the prices of competitive services. Those relating to~~ noncompetitive services shall be subject to the same requirements under this chapter as the prices of noncompetitive services.

(b) Repealed By Laws 2007, Ch. 142, 2.

(c) Repealed By Laws 2007, Ch. 142, 2.

(d) Any prices for competitive telecommunications services or prices for telecommunications services which are agreed to as a result of competitive bidding or negotiations, charged by contract and ~~required to be~~ filed with the commission under the provisions of this chapter, shall be afforded confidential and proprietary protection by the commission upon application and a showing of good cause by the company filing the contract.

ARTICLE 3 - INTEREXCHANGE COMPANIES

37-15-301. Regulation of interexchange companies.

(a) An interexchange company not authorized to provide intrastate telecommunications service in this state on or before January 1, 1995, shall not provide intrastate interexchange telecommunications services unless it first registers with the commission. An interexchange company authorized by the commission to provide intrastate telecommunications service as of January 1, 1995, is not required to register. The form for registration shall be specified by the commission.

(b) Any interexchange company registered with the commission to provide intrastate telecommunications services shall be authorized to provide statewide services.

(c) Repealed By Laws 2007, Ch. 142, 2.

(d) Repealed By Laws 2007, Ch. 142, 2.

(e) Repealed By Laws 2007, Ch. 142, 2.

ARTICLE 4 - REGULATION OF TELECOMMUNICATIONS SERVICES GENERALLY

37-15-401. Commission powers.

(a) In addition to the powers exercised pursuant to the provisions of W.S. 37-15-408, the commission has the power to:

(i) Investigate the methods and practices of any telecommunications company;

(ii) Require any telecommunications company to conform to the laws of this state and to all rules, regulations and orders of the commission not contrary to law;

(iii) Make any rules and regulations, in accordance with the Wyoming Administrative Procedure Act, necessary for the commission to carry out its powers in this chapter, including rules objectively established and consistent with commonly accepted industry standards, where applicable standards exist;

(iv) Require reports and studies as to prices and terms and conditions of service, necessary and relevant for the commission's exercise of its authority, including those protected as trade secret or confidential based on legitimate competitive or other operational concerns;

(v) Hold hearings on complaints, or for good cause, upon notice and subject to the provisions of the Wyoming Administrative Procedure Act;

(vi) Regulate telecommunications companies only as provided for in this chapter; and

(vii) Exercise authority as expressly delegated under the Federal Communications Act of 1934, as amended.

37-15-402. Repealed By Laws 2007, Ch. 142, 2.

37-15-403. Repealed By Laws 2007, Ch. 142, 2.

37-15-404. Protection of telecommunications consumers.

(a) No telecommunications company shall unreasonably discriminate as to customers in prices, terms or conditions of service, or in connection to or with other telecommunications companies. Nothing in this chapter shall be construed to prohibit any telecommunications company from:

- (i) Providing volume or other price discounts based on reasonable, nonpredatory business practices;
 - (ii) Passing through any state, municipal or local taxes to the customers in the area where the tax is levied; or
 - (iii) Furnishing free or reduced price service to its current or pensioned employees and dependent members of their families, as defined in the applicable price schedules on file with the commission.
- (b) The commission shall not give unreasonably discriminatory or preferential treatment in its regulation of any telecommunications company.
- (c) A telecommunications company providing a noncompetitive telecommunications service shall not discontinue providing the service without the commission's approval.
- (d) A telecommunications company shall not:
- (i) Fail to disclose in a timely and uniform manner information necessary for the design of equipment and services that will meet the specifications of interconnection;
 - (ii) Fail or refuse to provide a service or product in accordance with the telecommunications company's tariffs, price lists or contracts and within the commission's applicable rules and orders.
- (e) The commission may adopt rules and regulations to provide for:
- (i) The interconnection of telecommunications companies' networks at nondiscriminatory and reasonable rates, terms and conditions;
 - (ii) The effective and efficient interoperability of telecommunications companies' networks;
 - (iii) The unbundling of services into reasonable basic network features;
 - (iv) The administration and allocation of phone numbers to the extent technically and economically feasible;
 - (v) Telephone number portability to the full extent technically feasible; and
 - (vi) The resale and sharing of services and functions at reasonable and nondiscriminatory rates.
- (f) No telecommunications company shall engage in anti-competitive behavior, including, but not limited to, discrimination in favor of its affiliates.

37-15-405. Complaint against prices.

Any person, and the commission on its own motion, may complain to the commission concerning the reasonableness of the price of any noncompetitive telecommunications service or any violation of W.S. 37-15-404. Any notice and hearing of any complaint shall be in accordance with the Wyoming Administrative Procedure Act and this chapter. The commission shall only set aside any price it finds after notice and hearing to be unreasonable or unreasonably discriminatory. If the commission sets aside a price as unreasonable or unreasonably discriminatory, the telecommunications company shall have sixty (60) days to file a new price which is reasonable. The company shall refund any charges found to be unreasonable as ordered by the commission. Rates or prices for noncompetitive essential services in effect as of July 1, 2006, are deemed to be fair and reasonable.

37-15-406. Quality of service.

(a) Repealed By Laws 2007, Ch. 142, 2.

(b) Any customer, and the commission on its own motion, may complain concerning the quality of service provided by a telecommunications company. A complaint shall be noticed and heard as provided for in the Wyoming Administrative Procedure Act. The commission, after notice and hearing, may direct the telecommunications company to take whatever remedial action is technically feasible and economically reasonable to provide reasonably adequate service. The commission shall authorize a telecommunications provider to recover the cost of compliance as reasonably determined by any commission order under this section.

37-15-407. Annual report.

(a) The commission shall with the input and participation of the telecommunications industry and other relevant state departments, boards and agencies prepare and issue an annual report on the status of the telecommunications industry. The report shall be based on information provided to the commission and shall include:

(i) Repealed By Laws 2007, Ch. 142, 2.

(ii) Repealed By Laws 2007, Ch. 142, 2.

(iii) Repealed By Laws 2007, Ch. 142, 2.

(iv) Repealed By Laws 2007, Ch. 142, 2.

(v) Any recommendations for legislative change which are adopted by the commission and which the commission believes are in the interest of Wyoming telecommunications customers; and

(vi) Any other information or analysis which the commission is required to provide by this title or deems necessary to provide.

(b) The commission's report shall be filed with the legislature and the governor.

37-15-408. Applicability of existing law.

W.S. 37-2-102, 37-2-104, 37-2-106 through 37-2-109, 37-2-113, 37-2-115 through 37-2-118, 37-2-124, 37-2-125, 37-2-130, 37-2-203, 37-2-205(a), 37-2-209, 37-2-214 through 37-2-216, 37-2-218, 37-2-301 through 37-2-306, 37-3-114, 37-4-101 through 37-4-104, 37-12-120 through 37-12-130, 37-12-201, 37-12-202, 37-12-204 through 37-12-213, 37-12-301 through 37-12-304 and 37-13-101 through 37-13-137, inclusive, unless in conflict with other provisions of this chapter, are applicable to telecommunications companies and telecommunication companies shall be considered public utilities for the purposes of those provisions.

37-15-409. Construction with other laws.

If the provisions of this chapter conflict with any other statutes, the provisions of this chapter shall control.

37-15-410. Repealed By Laws 2007, Ch. 142, 2.

37-15-411. Repealed By Laws 2007, Ch. 142, 2.

37-15-412. Unauthorized change of telecommunications company; unauthorized services; prohibited practices; penalties.

(a) No person shall engage in any practice which has the effect of changing any Wyoming consumer's telecommunications company if the change is willfully made without the knowledge and consent of that consumer. No person shall willfully charge or attempt to collect charges from any Wyoming consumer for any product or service not provided to the consumer or not authorized by the consumer. The public service commission shall provide upon request of a Wyoming consumer, information or technical assistance regarding appropriate action for the consumer to take in order not to receive telecommunication companies solicitations.

(b) Any change in a Wyoming consumer's telecommunications company shall be effective only if it is in compliance with any method of authorization permitted under federal law, rule or regulation, except that no negative option marketing technique shall be permitted to be used.

(c) If the chosen method is a letter of agency it shall be maintained by the new service provider. No letter of agency under subsection (b) of this section shall be effective if it is physically attached to or part of any inducement, premium, coupon or other promotional material. No letter of agency shall be effective until it is in the actual possession of the new service provider.

(d) Any consumer whose telecommunications company has been willfully changed in violation of subsection (a) of this section is not liable for payment of any unauthorized charge unless the commission determines, after conducting a public hearing on any complaint brought on the matter, that the consumer engaged in any fraudulent or deceptive practice which avoids payment for telecommunications services in connection with the unauthorized charge.

(e) A consumer is not liable for an amount charged for any unauthorized product provided or service initiated by a telecommunications company or its billing agent without the consent of the consumer. No consumer shall be liable to pay for any product not delivered or service not furnished.

(f) Restitution for violation of this section shall be as follows:

(i) The unauthorized telecommunications company shall pay all recurring and nonrecurring fees and charges necessary for the consumer to promptly reinstate service from the original telecommunications company and shall pay that company an amount equal to that which would have been due had the consumer remained with the original telecommunications company;

(ii) In addition to paragraph (f)(i) of this section, the unauthorized telecommunications company shall pay to any consumer any amount the consumer has paid to the unauthorized company for which the consumer is not liable under subsection (d) of this section.

(g) If the commission shall determine by a preponderance of the evidence in a hearing that any person willfully has engaged in any practice which has the effect of changing any Wyoming consumer's telecommunications company without complying with the applicable provisions of this section, has charged or attempted to collect a charge for unauthorized service, or has solicited a Wyoming consumer in violation of this section:

(i) The commission may impose for each change or charge made in violation of this section an administrative penalty not to exceed one thousand dollars (\$1,000.00); and

(ii) If the commission finds that the person has violated this section with such frequency as to indicate a general business practice it may also permanently revoke the authority of the company involved to provide intrastate interexchange or other telecommunications services in this state.

(h) The following are not subject to the provisions of this section:

(i) Changes in a consumer's telecommunications company or other services effected through a consolidation or merger of the consumer's current telecommunications company;

(ii) Services and corresponding charges required by law or order of the commission.

37-15-413. Limitation on authority of political subdivision to enter exclusive agreement for provision of telecommunications service.

(a) Except as provided in subsections (b) through (d) of this section, before the governing body of any city or town or other political subdivision of this state shall provide for the construction, maintenance or operation of any telecommunications service by entering into an exclusive franchise, partnership, joint venture, contract, resale agreement or any other exclusive agreement with any party regarding telecommunications service, the city, town or other political subdivision shall:

(i) Determine, after notice and opportunity for a public hearing, that no private provider of telecommunications services is currently providing substantially the same or similar service anywhere within the boundaries of the city, town or political subdivision;

(ii) Have submitted a written request to all private providers of telecommunications services within the boundaries of the city, town or political subdivision for provision of the same quality and grade of telecommunications service within the same time frame and at the same consumer prices proposed under the exclusive contract;

(iii) Determine, after notice and opportunity for a public hearing that the private telecommunications service providers have not agreed within ninety (90) days of the receipt of the request submitted pursuant to paragraph (ii) of this subsection to provide the same quality and grade of service within the same time frame and at the same consumer prices as proposed under the exclusive contract, or if the provider has agreed, that the provider has not commenced providing or constructing facilities to provide the service in the manner agreed upon; and

(iv) Limit the term of any exclusive agreement under this section to not more than six (6) years.

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

(c) Nothing in this section shall restrict the governing body of a city or town, or other political subdivision, from providing a telecommunications service or facility:

(i) For its own use;

(ii) For 911, E-911 or other emergency services;

(iii) For medical or educational purposes; or

(iv) To students by an educational institution.

(d) Nothing in this section shall be construed to restrict the governing body of a city or town or other political subdivision, from providing a telecommunications service to a party within the geographic area in which the city, town or political subdivision operates as a telecommunications utility. Any city, town or political subdivision providing a telecommunications service under this subsection shall:

(i) Provide the telecommunications service on a nondiscriminatory, nonexclusive and competitively neutral basis; and

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

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

(i) If the commission finds that a city, town or political subdivision has violated this section, or finds that any rule, action or order of a city, town or political subdivision is anticompetitive or otherwise violates this section, the commission shall notify the city, town or political subdivision of the violation. The city, town or political subdivision shall cure the anticompetitive behavior within ninety (90) days following mailing of notice by the commission; and

(ii) If the city, town or political subdivision does not cure the anticompetitive behavior within ninety (90) days, the commission shall commence a contested case hearing on the complaint, governed by the Wyoming Administrative Procedure Act, W.S. 16-3-101 et seq. If, following the hearing, the commission finds that the city, town or political subdivision has violated this section, the commission shall prohibit the city, town or political subdivision from providing any telecommunications service until the violation of this section is remedied.

(f) This section does not apply to any contract entered into prior to July 1, 2007.

ARTICLE 5 - UNIVERSAL SERVICE FUND

37-15-501. Universal service fund created; ~~contributions~~; administration.

(a) There is hereby established the universal service fund to be administered in accordance with this section. The fund shall be funded by general appropriations of the Legislature and administered by the commission. ~~All telecommunications companies shall contribute to the universal service fund. The dates for contributions to the fund and~~ Disbursements from the fund shall be set by the commission, after notice and opportunity for hearing, as necessary to accomplish the objectives of the fund as specified in subsections (c) and (d) of this section. The costs of administering the fund may be included in determining the required ~~contributions~~ operational expense, not to exceed a total fund appropriation of \$3,000,000 annually. The total fund over the life of this act shall not exceed \$12,000,000. The commission shall report to the Joint Corporations Committee and Joint Appropriations annually on the effectiveness of the fund in meeting the objectives set forth in this section.

(b) The commission shall after notice and opportunity for hearing, designate the method by which ~~the contributions- funds~~ shall be ~~calculated, collected and~~ distributed. ~~The commission shall authorize an additional monthly charge to customers, in the amount specified by the commission, to recover each contributor's required payment to the universal service fund. Any charge related to mobile telecommunications service shall only apply if the customer's place of primary use is in this state as provided by the Mobile Telecommunications Sourcing Act, 4 U.S.C. 116 to 126. The provisions of the Mobile Telecommunications Sourcing Act shall apply to this subsection.~~

(c) The commission shall administer the monies in the universal service fund to assist only those residential customers of telecommunications companies located in rural high cost areas of this state with relatively high rates for essential services. The commission, after notice and opportunity for hearing, shall determine a reasonable amount and a fair method of distributing monies. The commission may authorize a credit to customer bills, in the amount specified by the commission, to reflect distributions received by the local exchange company from the universal service fund. The commission shall ensure that the method shall promote the emergence of competition in providing local exchange service.

(d) In accordance with the method of distribution determined by the commission, a telecommunications company shall receive funds under this section to the extent that its essential local exchange service prices, after consideration of any contributions from the federal universal service fund, exceed one hundred thirty percent (130%) of the weighted statewide average essential local exchange service prices.

(e) The operation of the universal service fund may be suspended by the commission, based upon a public interest finding, after notice and an opportunity for a hearing, that the fund is not then serving its intended purpose.

(f) The commission's decisions under this section shall be subject to the provisions of the Wyoming Administrative Procedure Act.

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

(a) Telecommunications companies which use cellular, radio spectrum or other wireless technology to provide supported services to customers who are otherwise eligible to receive universal service support pursuant to W.S. 37-15-501, may establish eligibility to receive universal service fund distributions in an amount to be determined by the commission, provided that:

(i) The telecommunications company will offer and advertise all universal service fund supported services throughout the entire local exchange area;

(ii) The telecommunications company will provide unlimited local calling throughout an entire local exchange area for a flat fee;

(iii) The telecommunications company's bill to the customer reflects a credit for the amount of distribution the company receives from the state universal service fund for providing universal service fund supported services to that customer; and

(iv) The company and services meet such additional criteria, if any, the commission, after notice and opportunity for hearing, determines are necessary. During its consideration and determination, the commission shall consider technological and competitive neutrality.