



## WYOMING LEGISLATIVE SERVICE OFFICE

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### *Research Memo*

06 RM 016-2

**Date:** May 26, 2006

**Authors:** Don C. Richards, Senior Research Analyst

**Re:** Regulation and Taxation of Major Communications Companies in Wyoming

**Request:** Summarize the taxation of communications companies in Wyoming, including a discussion of the assessment rate, whether companies are state or locally assessed, and whether the companies likely operate under a franchise agreement.

**Response:** Telecommunication companies, including several different types of telephone and telegraph companies, are state assessed at the industrial rate of 11.5 percent. Cable television companies are locally assessed at the "all other property" rate of 9.5 percent. In general, it appears to LSO that local assessors rely more heavily on the cost approach to assess cable television companies, while state assessors consider a combination of approaches and rely on the results of the income approach more than local assessors. The balance of this memo summarizes some of the characteristics and differences of the taxation and regulation of communication companies within Wyoming.

#### **BACKGROUND**

The state, through the Department of Revenue (DOR), not county assessors, assess telecommunication companies, including those providing telephone service, telegraph service, cellular, wireless, or satellite telecommunication services, for purposes of ad valorem taxes.<sup>1</sup> (W.S. 39-13-102(m)(vi)) Further, property of telecommunications companies are, by statutory definition, to be considered industrial properties for purposes of ad valorem taxation. (W.S. 39-11-101(a)(xiv)) Therefore, these properties are assessed at 11.5 percent. Since current statutory definitions provide that telecommunications services specifically do not include cable or satellite television (or telephone answering service and one-way paging or beeper service) and telecommunications companies are those that furnish telecommunications services, television cable companies do not appear to qualify under the industrial classification for state assessment.

As a result, properties of cable television companies fall within the "all other" assessment classification, at an assessment rate of 9.5 percent. Second, the properties of cable television companies are not included in those that are to be state assessed. Rather, they are assessed locally by each county assessor. Note that under the current statutory construction, there appear to be at least two distinct issues: (1) whether a company is locally or state assessed and (2) whether a company is assessed at 11.5 percent (industrial property) or at 9.5 percent (all other property). A third issue may also become important in the determination of fair market value – the available information and assessment approach (or approaches) primarily relied upon to determine the assessed value of the property, e.g., comparable sales (or market) approach, cost approach, income approach,

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<sup>1</sup> W.S. 39-13-101(a)(vi) and (vii) provides further definitions of telecommunications companies and telecommunications services.

or some combination thereof. The following are the pertinent statutory definitions, requirement of state assessment, and inclusion of telecommunication companies within the industrial classification tier.

**I. Definitions of telecommunications companies and services.** W.S. 39-13-101 (a)(vi) and (vii) provides the following definitions,

(vi) "Telecommunications companies" means and includes any person engaged in the furnishing of telecommunications service;

(vii) "Telecommunications service" means the offering of transmission for hire of telecommunications between or among points specified by the user, of information of the user's choosing without change in the content of the information as sent and received by means of telecommunications facilities, including switching facilities, using wire, cable, microwave, radio wave, light wave or a combination of those or similar media. The term shall include all types of telecommunications transmission such as telephone service, telegraph service, cellular, wireless or satellite. The term shall not include assets used for television or radio programming broadcast over airwaves for public consumption, cable or satellite television offered for public consumption or telephone answering service and one-way paging or beeper service;

**II. Requirement of state assessment of telecommunications companies.** W.S. 39-13-102(m) states, in part,

(m) The department shall annually value and assess the following property at its fair market value for taxation:

(vi) Property of telecommunications companies;

**III. Classification of telecommunications companies within the industrial property tier.** W.S. 39-11-101(a) (xiv) provides the following definition, "Property used for industrial purposes" means those properties valued under W.S. 39-13-102(m)(ii) through (viii)..., where W.S. 39-13-102(m)(vi) refers to property of telecommunications companies.

#### **ASSESSING COMMUNICATIONS COMPANIES**

The Department of Revenue and county assessors are generally charged with assessing property at its fair market value. (W.S. 39-13-103(b)(ii)) DOR is also statutorily charged with prescribing by rule and regulation the appraisal methods and systems for determining fair market value using generally accepted appraisal standards. The following statutory and DOR rule excerpts offer the broad basis for valuing through appraisal and reconciliation for both state assessed and locally assessed properties:

W.S. 39-11-101(a)(vi) provides the definition of fair market value by stating, "'Fair market value" means the amount in cash, or terms reasonably equivalent to cash, a well informed buyer is justified in paying for a property and a well informed seller is justified in accepting, assuming neither party to the transaction is acting under undue compulsion, and assuming the property has been offered in the open market for a reasonable time, except, fair market value of agricultural land shall be determined as provided by W.S. 39-13-103(b)(x) and fair market value of mine products shall be determined as provided by W.S. 39-14-103(b), 39-14-203(b), 39-14-303(b), 39-14-403(b), 39-14-503(b), 39-14-603(b) and 39-14-703(b);"

W.S. 39-13-103(b)(ii) sets forth the parameters for the methods used to appraise property at its fair market value. It states, "All taxable property shall be annually valued at its fair market value. Except as otherwise provided by law for specific property, the department shall prescribe by rule and regulation the appraisal methods and systems for determining fair market value using generally accepted appraisal standards;"

Finally, DOR Rules and Regulations (Chapter 7, State Assessments and Chapter 9, Local Assessments) speak

to the appropriate appraisal methods to be applied. Pertinent sections of the rules are reproduced below:

State Assessments, Ch. 7 -

Section 6. Appraisal Methods. The appraisal techniques which may be used by the Department of Revenue, State Assessment Section include the approaches described in this section. Each approach used shall be an appropriate method for the type of property being valued; that is, the property shall fit the assumptions inherent in the appraisal method in order to calculate or estimate the fair market value of the property. Each approach used shall also consider the nature of the property or industry, and the regulatory and economic environment within which the property operates.

Section 8. Reconciliation. The appraiser shall consider the relative significance, applicability and appropriateness of the indications of value derived from the approaches to value or methods outlined above, and will place the most consideration and reliance on the value indicator which, in his professional judgment, best approximates the value of the subject property. The appraiser shall evaluate all alternative conclusions and correlate the value indicators to arrive at a final estimate of fair market value.

Local Assessment, Ch. 9 –

Section 6. Appraisal Methods. The appraisal techniques which may be used by the County Assessor or the Ad Valorem Tax Division under written agreement with a county include the approaches described in this section. Each approach used shall be an appropriate method for the type of property being valued; that is, the property shall fit the assumptions inherent in the appraisal method in order to calculate or estimate the fair value of the property. Each approach used shall also consider the nature of the property or industry, and the regulatory and economic environment within which the property operates. For personal property, the valuation methodology selected shall reflect the trade level at which personal property is found, and shall account for factors influencing the value in place including utility, usefulness to the owner or the actual income produced.

Section 7. Reconciliation. The appraiser shall weigh the relative significance, applicability and appropriateness of the indications of value derived from the approaches to value or methods outlined above, and will place the most weight and reliance on the value indicator which, in his professional judgment, best approximates the value of the subject property. The appraiser shall evaluate all alternative conclusions and reconcile the value indicators to arrive at a final estimate of value. For market value, the final estimate is that value which most nearly represents what the typical, informed, rational purchaser would pay for the subject property and a rational seller would accept if it were available for sale on the open market as of the date of the appraisal, given all the data utilized by appraisers in their analyses.

## **OTHER CLASSIFICATION CRITERIA**

A second classification upon which communications companies<sup>2</sup> can be categorized include companies which are rate-regulated by the Public Service Commission (PSC), certificated by the PSC, registered with the PSC, and those not rate-regulated by, certificated by, or registered with the PSC. Telecommunications companies rate-regulated or certificated by the PSC fall into two categories: Incumbent local exchange carriers (ILECs), which are rate-regulated by the PSC, and competitive local exchange carriers (CLECs), which are certificated, but not rate-regulated, by the PSC. There are 14 ILECs operating in Wyoming, all of which own their own physical facilities needed to conduct telecommunications business, i.e., switch, transport, or terminate telecommunications traffic, on their own system. There are more than 60 CLECs certificated by the PSC

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<sup>2</sup> Communications companies, as used throughout this memo, is intended to be defined broadly. Communications companies include all telecommunications companies (cellular, land line, major incumbent providers, rural service providers, competitive service providers, long distance carriers) cable television providers, internet service providers, and satellite companies which provide communications services.

which compete against the ILECs. Beyond these companies, PSC records indicate approximately 300 active interexchange carriers which are registered with the PSC and have the opportunity to provide competing long distance telecommunications services in Wyoming but, again, are not rate-regulated. Finally, there are roughly two dozen cellular and personal communications service providers licensed by the Federal Communications Commission (FCC) to operate in Wyoming and LSO Research staff have identified at least 15 local cable television providers operating in Wyoming. Cellular and cable television providers are not rate-regulated, certificated by the PSC, or registered with the PSC.<sup>3</sup>

Yet another characteristic upon which communications companies can be further categorized is whether the communication service provider has a franchise agreement (or pays a franchise fee) to the municipality in which they operate. W.S. 15-1-103(a)(xxxiii) allows municipalities to grant franchises to any utility for the privilege of installing and maintaining installations under or over any streets, alleys or avenues. Further, the statute restricts municipalities from providing a franchise for the "exclusive right for any purposes whatsoever." Although there is not a single repository for all franchise agreements between municipalities and communications companies, based upon several conversations with municipal staff, there appears to be a general practice to enter into franchise agreements with both local telephone providers and local cable television providers. As part of the agreement, the providers pay a fee to the municipality, typically as a small percent of gross sales. In some communities there is competition for local communication services. In these communities, e.g., Evanston and Greybull, municipalities engage in multiple franchise agreements with various communications companies. In still other communities, such as Cheyenne, the municipality and a local telecommunications provider are not operating under an existing franchise agreement, according to city staff. However, the telecommunications provider continues to remit a franchise fee to the municipality, despite the lack of a franchise agreement.

Table 1 begins to describe at least a broad range of the communications companies operating in Wyoming. The list is admittedly not exhaustive, and due to new entrants, mergers, acquisitions, and even bankruptcies, any list in this dynamic industry is likely somewhat dated shortly after completion. The list does not include internet service providers and those companies offering voice over internet services. The list includes just one satellite television provider (EchoStar) simply for comparison purposes. Further, the local cable television companies are based upon agreements and contacts with Wyoming Public Television (WPTV) supplemented by background research available from the Wyoming Business Council, the only identified state entities with record of local cable television service. Since the relationship between the local cable providers and WPTV is not a regulatory one, the list of cable operators may not be exhaustive. Since there is no central repository of municipal franchise agreements, the indication of whether one exists is based upon LSO Research staff's judgment as to whether a franchise agreement is likely to exist. Finally, there are more than 200 additional reseller telephone companies (all state-assessed at 11.5 percent) on file with the Department of Revenue and approximately 300 more Wyoming interexchange carriers registered with the PSC to do business in Wyoming. Many of these carriers may not be doing business in Wyoming, and it appears some are not on file with the Department of Revenue.

One important comment should be made regarding the designation of state versus local assessments. The Department of Revenue reports that they apply the unitary method and consider several assessment approaches, e.g., income, sales comparison, or cost, consistent with statute and rule and regulation. According to DOR staff, some companies may be assessed through a combination of several approaches and weighting the assessment result of more than one approach. For other companies, DOR assessors determine that one or more of the approaches may not be appropriate, particularly if data is not available, e.g., applicable sales on which to compare. By DOR rule, county assessors are also directed to "weigh the relative significance, applicability and appropriateness of the indications of value derived" from the three approaches discussed above (income, sales comparison and cost). In practice, the local assessors contacted by LSO all reported

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<sup>3</sup> According to PSC staff, cellular companies, while not technically registered with the PSC, may have revenue subject to intrastate assessment and may qualify with certain PSC requirements.

ultimately applying the results of the cost approach to value communications companies and indicated that they believed other assessors were also predominately applying the results of the cost approach. It is certainly possible that there are examples of locally assessed communications companies that are being assessed using the results of an alternative approach (e.g., sales comparison or income); however, it does not appear to LSO Research staff that the results of the income approach are being relied upon by local assessors to the extent they are at the state level.

**Table 1. Telecommunications Companies – Summary Data.**

<b>Company</b>	<b>Primary Service</b>	<b>Tax Tier</b>	<b>State or Local Assessment/ Method</b>	<b>Oversight by PSC</b>	<b>Municipal Franchise Fees</b>
360networks (USA) inc.	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
360Networks (USA2) Inc. fka Dynegy	Major Telephone Company	11.5%	State Assessed – Unitary Method	Unclear, perhaps under above entry	Probably not
A T & T Communications of the Mountain States	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
A T & T Communications	Major Telephone Company	11.5%	State Assessed – Unitary Method	Not under this name	Probably not
Abovenet Communications, Inc.	Major Telephone Company	11.5%	State Assessed – Unitary Method	Not under this name	Probably not
ACN Communication Services	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Adelphia	Cable Television	9.5%	Locally Assessed	No	Presumably
Advanced Communications Technology, Inc.	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
All West Communications, Inc.	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
All West/Wyoming, Inc.	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Presumably
All West	Cable Television	9.5%	Locally Assessed	No	Presumably
ARBROS Communications dba Comm South Companies	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
B&C Cablevision, Inc.	Cable Television	9.5%	Locally Assessed	No	Presumably
BellSouth Long Distance, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Bresnan Broadband of Wyoming, LLC	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Presumably
Bresnan Communications	Cable Television	9.5%	Locally Assessed	No	Presumably
BT Communications Sales, LLC	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Budget Phone, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not

<b>Company</b>	<b>Primary Service</b>	<b>Tax Tier</b>	<b>State or Local Assessment/ Method</b>	<b>Oversight by PSC</b>	<b>Municipal Franchise Fees</b>
Bullseye Telecom	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
C III Communications, LLC dba Broadwing Comm.	Major Telephone Company	11.5%	State Assessed – Unitary Method	Registered Interexchange Carrier	Probably not
CenturyTel of Wyoming	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Champion	Cable Television	9.5%	Locally Assessed	No	Presumably
Chugwater Telephone Company	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
CommPartners, LLC	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Communicom	Cable Television	9.5%	Locally Assessed	No	Presumably
Computer Network Technology Corporation	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Comtech 21, LLC	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Contact Communications	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Covista, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Cowley Cable TV, Inc.	Cable Television	9.5%	Locally Assessed	No	Presumably
Dieca Communications dba COVAD Communications Company	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
DSLnet Communications, LLC	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Dubois Telephone Exchange, Inc.	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
EchoStar Communications Corporation/DISH Network	Direct Broadcast Satellite	9.5%	Locally Assessed	No	Probably not
Edge Wireless	Cellular Communications	11.5%	State Assessed – Unitary Method	No	Probably not
Ernest Communications	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Excel Telecommunications, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not

<b>Company</b>	<b>Primary Service</b>	<b>Tax Tier</b>	<b>State or Local Assessment/ Method</b>	<b>Oversight by PSC</b>	<b>Municipal Franchise Fees</b>
France Telecom Corporate Solutions	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
France Telecom Long Distance USA, LLC	Major Telephone Company	11.5%	State Assessed – Unitary Method	Not under this name, perhaps affiliated with the above	Probably not
Global Crossing North American Networks, Inc.	Major Telephone Company	11.5%	State Assessed – Unitary Method	Registered Interexchange Carrier	Probably not
Golden West Telecommunications Cooperative, Inc.	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Granite Telecommunications, LLC	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
ICG Telecom Group, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
IDT America Corp.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
iLOKA dba Mictrotech-tel	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Intrado Communications, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
InTTec, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Ionex Communications North, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Kaycee Cable	Cable Television	9.5%	Locally Assessed	No	Presumably
Klip	Cable Television	9.5%	Locally Assessed	No	Presumably
KMC Data, LLC	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
KMC Telecom V	Unknown			Regulated (CLEC)	Probably not
Level 3 Communications, LLC	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Martix Telecom, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
MCI WorldCom Network Services, Inc.	Major Telephone Company	11.5%	State Assessed – Unitary Method	Unknown – perhaps as MCIMETRO?	Probably not
MCIMETRO Access Transmission Services, LLC	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not

<b>Company</b>	<b>Primary Service</b>	<b>Tax Tier</b>	<b>State or Local Assessment/ Method</b>	<b>Oversight by PSC</b>	<b>Municipal Franchise Fees</b>
McLeodUSA Network Services, Inc.	Major Telephone Company	11.5%	State Assessed – Unitary Method	Unknown – perhaps as McLeodUSA Telecommunications	Probably not
McLeodUSA Telecommunications Services	Unknown, reportedly a separate entity from McLeod Network Services listed above			Regulated (CLEC)	Probably not
MetaComm Cellular Partners dba Cellular One	Cellular Communications	Unknown, perhaps taxed under a different name (reportedly purchased by Western Wireless which is now part of Alltel) or no activity to file		No	Probably not
New Access Communications, LLC	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
New Edge Networks, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
NOS Communications, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Nova Communications dab 1-800-RECONEX, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
OrbitCom Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Pacific Centrex Services	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Preferred Carrier Services, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Premiere Network Services	Unknown, perhaps under a different name or no activity to file			Regulated (CLEC)	Probably not
Project Telephone Company	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
QuantumShift Communications, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Qwest Communications Corporation	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Qwest Corporation fka U.S. West	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Qwest Wireless, L.L.C.	Cellular Communications /Reseller	11.5%	State Assessed – Unitary Method	No	Probably not
Range Telephone Cooperative, Inc.	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Regal Telephone Company, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not



<b>Company</b>	<b>Primary Service</b>	<b>Tax Tier</b>	<b>State or Local Assessment/ Method</b>	<b>Oversight by PSC</b>	<b>Municipal Franchise Fees</b>
Reliant Communications	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
RT Communications, Inc.	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Silver Star	Cable Television	9.5%	Locally Assessed	No	Presumably
Silver Star Communications dbaTeton Telecom Communications	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Silver Star Communications	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC) and Regulated (CLEC)	Presumably
Silver Star Communications dba Silver Star Wireless, Valley Wireless, Bridger Land Wireless	Cellular Communications	Not certain, perhaps taxed under a different name (reportedly dba Mountain Land Communications which is state assessed using the unitary method) or no activity to file		No	Probably not
Southwestern Bell Communications Services (SBC)	Unknown, perhaps affiliated with the below entry or under a different name, e.g., AT&T			Regulated (CLEC)	Probably not
SBC Long Distance	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Unknown, perhaps affiliated with the above	Probably not
Sprint Communications Company	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Sprint Communications dba United Telephone Company of the West	Major Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Sprint Spectrum	Cellular Communications	11.5%	State Assessed – Unitary Method	No	Probably not
Sweetwater Television Co	Cable Television	9.5%	Locally Assessed	No	Probably not
Talk.com Holding Corp dba Talk America, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
TCT	Cable Television	9.5%	Locally Assessed	No	Presumably
TCT West, Inc.	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Tel West Communications, LLC	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Tongue River	Cable Television	9.5%	Locally Assessed	No	Presumably
Tri Tel, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Tri-County Telephone Association	Rural Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Ubiquitel, Inc.	Cellular Communications	11.5%	State Assessed – Unitary Method	No	Probably not

Company	Primary Service	Tax Tier	State or Local Assessment/ Method	Oversight by PSC	Municipal Franchise Fees
UCN, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Uintah basin Electronic Telecommunications	Cellular Communications	11.5%	State Assessed – Unitary Method	No	Probably not
Union	Cable Television	9.5%	Locally Assessed	No	Presumably
Union Telephone Company	Rural Telephone	11.5%	State Assessed – Unitary Method	Regulated (ILEC)	Presumably
Union Telephone Company dba Union Cellular	Cellular Communications	Unknown, perhaps taxed under a different name, e.g., part of Union Telephone Company as listed above, or no activity to file		No	Probably not
United Communications Hub, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Universal Access, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Vartec Telecom, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
VCI Company	Unknown, perhaps taxed under a different name or no activity to file			Regulated (CLEC)	Probably not
Verizon Communications dba Verizon Wireless	Cellular Communications	11.5%	State Assessed – Unitary Method	No	Probably not
VoiceStream PCS II Corp dba T-Mobile	Cellular Communications	11.5%	State Assessed – Unitary Method	No	Probably not
WERCS Communications Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Western CLEC Corp. fka Eclipse Communications	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Western Wireless	Cellular Communications	11.5%	State Assessed – Unitary Method	No	Probably not
WorldCom Communications	Unknown, perhaps under a different name, e.g., MCI Worldcom which has reportedly merged with Verizon Communications, or no activity to file			Regulated (CLEC)	Probably not
Wyoming RSA #1 – Park Limited Partnership	Cellular Communications	11.5%	State Assessed – Unitary Method	No	Probably not
XO Communication Services, Inc.	Reseller Telephone Company	11.5%	State Assessed – Unitary Method	Regulated (CLEC)	Probably not
Z-Tel Communications	Unknown, perhaps taxed under a different name, no activity to file, or registration has been cancelled			Regulated (CLEC)	Probably not

**Source:** LSO summary of information provided by the Public Service Commission (PSC), Department of Revenue (DOR), Wyoming Public Television, and Wyoming Business Council. The existence of a municipal franchise agreement, or more specifically, whether franchise fees are paid by any company to a municipality is based upon LSO Research staff judgment as to its likelihood, not on evidence of actual payments.

## PROPERTY TAXATION OF INTERNET-RELATED COMPANIES

With developments in technology, issues raised regarding the property tax assessment definitions and tax treatment of similar properties or property of companies offering similar services may be worthy of exploration. In short, there are at least two different issues that are presented: (1) distinguishing between what is, and what is not, considered "telecommunication services" for purposes of property taxation and (2) sorting through issues of nexus. As to the first matter, complications arise due to advances in technology and appear to be rather unique to the communications' industry. The complications of nexus are not unique to the communications industry; but, nonetheless, can result in two similar, competing services provided to a Wyoming resident that are treated differently for purposes of property taxation.

There are at least four different arrangements identified by LSO Research staff in which communication companies either provide Internet service (broadly defined within the scope of communications services<sup>4</sup> for purposes of this memo) or provide two-way audio communications<sup>5</sup> through the use of the Internet, e.g., voice over internet or internet telephony. These identified arrangements include the following:

1. In-state Internet Service Providers (ISPs) whose primary business is the provision of commercial or residential internet service is the first category of internet communications services. Wyoming.com (based in Riverton) or Lariat.net (based in Laramie) are two examples of these types of companies. According to local and state assessors, these types of companies are locally assessed, at 9.5 percent (at least in the instances sampled by LSO). Further, according to responses from a small number of county assessors, these companies are locally valued by applying the results of the cost approach to valuation.
2. ISP providers with no known corporate presence in Wyoming or known personal property in Wyoming make up the second category. Some national companies of this type include AOL, NetZero, EarthLink, etc. However, LSO has not definitely determined whether any of the above mentioned companies indeed lack ownership of property in Wyoming. In the event a national ISP provider *like* the above mentioned companies did not own property in Wyoming, the company would not pay property taxes. In the event a national ISP provider did own property in Wyoming, it is presumed by LSO Research staff that the property would be assessed locally, consistent with the property described in paragraph (1) at 9.5 percent.
3. ISP providers that offer Internet services as a secondary component of another primary business make up the third category. Potential examples of these types of companies include Qwest, whose primary business is telecommunications, and Bresnan, whose primary business is cable television. Based upon conversations with these companies, LSO Research staff understand that in instances such as these the companies' property attributable to the ISP enterprise is taxed identically to the property of the primary company.<sup>6</sup> In other words, for a company whose primary business is telecommunications service, the property, including the property associated with the provision of ISP services, is categorized as state

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<sup>4</sup> The intended purpose of this memo is not to interpret what communication activities qualify under the definition of "telecommunications services" under W.S. 39-13-101(a)(vii). Interpretation of statutes is not the role of LSO Research staff. Nonetheless, identification of specific commercial communications arrangements and how they might be treated under the current property tax provisions may assist in educating interested individuals about these types of issues. The specific terms, conditions, and facts of any particular company may result in treatment that is different than what is discussed here.

<sup>5</sup> Again, the discussion of property taxation of Internet-related services is meant to be illustrative only. Current statute is silent on many factors such as the exclusivity of the communications, audio, video, or textual nature of the communications, etc. Other characteristics, such as the mode of transmission, e.g., wireless, satellite, etc. are mentioned in current statute. That said, certain constraints and assumptions have been presupposed by LSO Research staff for purposes of explanation.

<sup>6</sup> It seems possible that these primary business could segregate the ISP enterprise (and associated property) from the primary company as a wholly-owned subsidiary, but no instance of this arrangement has been identified.

assessed property, assessed at 11.5 percent, using a valuation determined by the Department of Revenue, which could apply the results of multiple approaches to valuation, e.g., sales comparison, cost, or income approach.<sup>7</sup> For a company whose primary business is the provision of cable television services, the property related to the ISP services would likely be assessed at 9.5 percent by local assessors.<sup>8</sup>

4. Finally, voice-over-internet protocol (VOIP) providers with no known physical presence or personal property in Wyoming would not be assessed property taxes, due to a lack of nexus. National companies that might fit this description include Vonage. (Again, LSO is unable to definitively state that Vonage, or similar companies, do not own property within the state of Wyoming. However, Vonage, is not currently state-assessed by the Department of Revenue, at least under the business name "Vonage.") If such a company did provide VOIP services in Wyoming, if those services were judged to be telecommunications services, and if the company did have property in the state of Wyoming, the property would be state-assessed at 11.5 percent. LSO Research staff has not been able to identify any such companies at this time and are not aware of the determination as to whether these services would or would not be considered "telecommunications services" under current statute. Admittedly, this is merely an exploration of a series of hypothetical assumptions and not an attempt to definitively respond to the outcome of that series of hypotheticals.

If you have any further questions, do not hesitate to contact me at 777-7881.

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<sup>7</sup> According to Department of Revenue staff, for a state-assessed company to have an operation that would be locally assessed, the subsidiary, would need to be completely separated from the operations of the state-assessed business in order to be locally assessed. There are, reportedly, some such companies that would (and do) meet these criteria and indeed have some locally assessed operations.

<sup>8</sup> Based upon limited conversations with county assessors, it appears to LSO that the general trend of local assessment is to apply the results of the cost approach to valuation.