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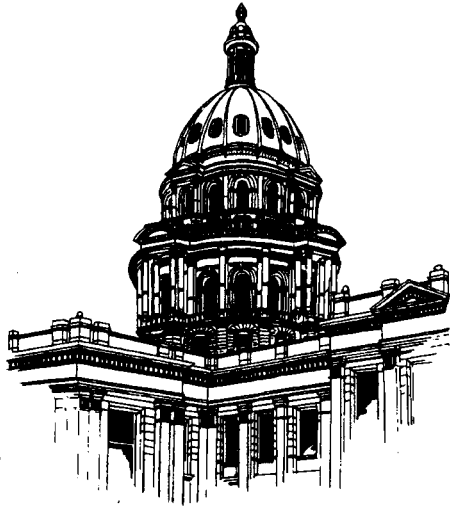
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**Study of**

**Telecommunications**

**Issues**

**Report to the**

**COLORADO**

**GENERAL ASSEMBLY**

**Colorado Legislative Council**  
**Research Publication No. 462**  
**November 1999**

**RECOMMENDATIONS FOR 2000**

**STUDY OF  
TELECOMMUNICATIONS ISSUES**

**Report to the  
Colorado General Assembly**

**Research Publication No. 462  
November 1999**

# COLORADO GENERAL ASSEMBLY

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November 1999

To Members of the Sixty-second General Assembly:

Submitted herewith is the final report of the Study of Telecommunication Issues. The interim committee was created pursuant to Senate Joint Resolution 99-049.

At its meeting on November 15, 1999 the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2000 session was approved.

Respectfully submitted,

/s/

Chairman  
Legislative Council

CB/JG/pw

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# **STUDY OF Telecommunications Issues**

## **Members of the Committee**

Senator Ken Chlouber  
Chairman  
Senator Marilyn Musgrave  
Senator Terry Phillips

Representative Brad Young  
Vice Chairman  
Representative Fran Coleman  
Representative Scott McKay

## **Legislative Council Staff**

Will Meyer  
Senior Fiscal Analyst

Julie George  
Research Assistant

## **Office of Legislative Legal Services**

Duane Gall  
Senior Staff Attorney



# EXECUTIVE SUMMARY

## **Committee Charge**

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Senate Joint Resolution 99-49 authorized the appointment of a six-member legislative committee to consider issues raised by the continuing evolution and deregulation of telecommunications services in Colorado. The resolution directed the committee to consider a number of issues and to consult with the Colorado Public Utilities Commission (PUC) and representatives of a number of specified stakeholders.

## **Committee Activities**

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The committee held six meetings during the 1999 interim and heard and received written testimony from a number of individuals and organizations:

- the director of the PUC, Associate Professor Phil Weiser of the University of Colorado, School of Law and Interdisciplinary Telecommunications Program, and interested citizens;
- telecommunication providers, including AirTouch Wireless, AT&T/TCI, CenturyTel, Citizens Communication, Colorado Independent Telephone Companies, Colorado Rural Electric Association, Level 3 Communications, MCI WORLDCOM, McLeodUSA, NextLink, Qwest, SkyBridge, Sprint, TESS Communications, and US WEST; and
- consumers, represented by the Director of the Office of Consumer Counsel.

At the committee's first and second meetings, an overview of the telecommunications industry and its transition from a regulated monopoly to a competitive market was provided by the director of the Public Utilities Commission. At subsequent meetings, representatives of the participating stakeholders discussed issues of effective competition, rural access, basic and advanced services, and deregulation, focusing on opportunities for improving telecommunications in Colorado.

## **Committee Recommendations**

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As a result of committee discussion and deliberation, the committee recommends six bills for consideration in the 2000 legislative session.

**Bill A — Transition of Telecommunications Regulation from Traditional Utilities Regulation to a Competitive Market.** Bill A, effective July 1, 2003, replaces the traditional utilities regulation of telecommunications providers with a competitive market by a date certain.

**Bill B — Adoption of a Definition of “Rural Telecommunications Provider.”** Bill B defines a new term, “rural telecommunications provider,” that conforms substantially with the definition of a “rural telephone company” in the federal Telecommunications Act of 1966 and PUC adopted rules, and applies the new definition to applicable existing sections of law.

**Bill C — Deregulation of Retail Sales of Specified Telecommunication Services, and, Deregulation of Retail Directory Assistance and Private Line Services.** Bill C exempts directory assistance and certain, defined, private line services from regulation by the PUC. The bill removes directory assistance from the regulatory definition of operator services and requires the PUC to adopt a single statewide benchmark rate applicable to nonoptional operator services. It removes the PUC's authority to regulate the terms and conditions under which certain private line services are offered and provided at retail.

**Bill D — Continuing Jurisdiction of the Public Utilities Commission Over Telecommunications Services That Are Not Subject to Traditional Forms of Economic Regulation.** Bill D authorizes the PUC to establish minimum quality standards governing the provision of wholesale, interconnection, and transport services. The bill provides for an expedited complaint procedure for the PUC to handle complaints and disputes between providers. The bill requires the PUC to adopt rules establishing minimum service quality standards. The bill also creates a new regulatory scheme in which specific retail services, except for switched access, found to be effectively competitive, would be subject only to general supervision by the PUC.

**Bill E — Prohibition on Implicit Subsidies for Telecommunications Services; Requiring that Explicit Subsidies be Limited; and Requiring the PUC to Supervise a Reduction in Intrastate Switched Access Rates.** Bill E requires the PUC to issue orders to require, by December 1, 2002, the removal of all implicit subsidies from wholesale provider-to-provider rates, including rates for switched access. These implicit subsidies would be made explicit and recovered through the universal service support mechanism to the extent determined appropriate by PUC. The PUC may grant small local exchange providers a waiver of the requirements for a time period not to exceed 24 months.

**Bill F — Creation of the State Telecommunications and Technologies Council.** Bill F creates a nine-member Telecommunications and Technologies Council. In

consultation with public institutions, industry, and the affected public, the council would develop goals and plans for meeting the economic and developmental telecommunications needs of the state and its citizens. The council's duties are to: study the status of basic and advanced telecommunications services; identify the major types of telecommunications infrastructure in different geographic areas of the state; develop a plan to maximize federal funding, minimize state expenditures, and create development incentives.

# **AUTHORITY AND RESPONSIBILITIES**

Senate Joint Resolution 99-49 authorized the appointment of a six-member legislative committee to consider issues raised by the continuing evolution and deregulation of telecommunications services in Colorado. The resolution directed the committee to consider a number of issues, including:

- the status of competition in Colorado telecommunications markets and the identification of any impediments to competition that may exist;
- the advanced telecommunications services that are generally available in urban and rural areas of the state;
- an identification of the costs associated with the provision of access to advanced telecommunications services that are generally available in urban areas to rural areas of the state;
- options that might be considered in establishing additional support mechanisms or other methods of shared payment for the costs of ensuring the availability of advanced telecommunications services throughout the state and avoiding the arbitrary division of communities into different local calling areas;
- an analysis of the level of competition existing for services such as InterLATA toll (long distance) or service between a carrier in one LATA (local access and transport area) and a carrier in another LATA); IntraLATA toll (connection between two local exchanges within one LATA); private line; and directory assistance to evaluate whether further deregulation of such services is warranted; and
- an analysis of privacy issues raised by the sharing of customer information and routing of calls by and among competing carriers, particularly in regard to the secure conduct of electronic commerce.

# COMMITTEE ACTIVITIES

## **Overview of the Telecommunications Industry and Its Transition From a Regulated Monopoly to a Competitive Market**

The Public Utilities Commission (PUC) provided the committee with a brief history of the telecommunications industry. Since the late 1800s, the telecommunications industry has alternated between being a competitive industry and a regulated monopoly. Most commonly, these changes were a result of antitrust lawsuits. In Colorado, there have been several key pieces of telecommunications legislation that have shaped the industry in the state. In 1984, House Bill 84-1264 was adopted as Colorado's first statute to regulate intrastate telecommunications services. It recognized the designation of local access and transport areas, commonly known as LATAs. In 1987, House Bill 87-1336 was adopted, which initiated the three part telecommunication regulatory structure that is currently in use. In 1995, the General Assembly passed House Bill 95-1335, which opened the telecommunications industry to competition. Through competition, the law intends to increase consumer choice for basic and advanced telecommunication services, to lower prices and costs, and protect universal service. A result of the changes in regulation of local exchange service is the agreement the PUC staff and the Office of Consumer Council negotiated with US WEST (US WEST Pricing Regulation Plan) in 1999. The agreement is the first significant departure for US WEST from the traditional rate of return regulation used prior to the state's 1995 Telecommunications Act. The new policy gives US WEST pricing flexibility between ceiling and floor rates established by the PUC.

On the heels of House Bill 95-1335, the federal government passed the federal Telecommunications Act of 1996. The 1996 federal act was the first substantial change the federal government had made to telecommunications law since the enactment of the federal Telecommunications Act of 1934. Like the 1995 Colorado act, the federal act opens local exchange markets to competition. The federal law outlines the process by which incumbent local exchange carriers (LECs) must open their lines for interconnection with new local exchange providers. In return, once state and federal regulators have determined that the local exchange market is competitive and the providers comply with Section 271 of the Federal Telecommunication Act of 1996 checklist, the "Baby Bells" including US WEST, can then enter the long distance market. The law also removes barriers to mergers and acquisitions within the telecommunications industry. As a result, there have been many major mergers recently, including AT&T with TCI Cable and US WEST with Qwest Communications.

### **Effective Competition**

One of the main charges of the committee was to examine telecommunications in Colorado to determine if there is effective competition. The committee heard testimony

from providers, consumer advocates, the Public Utilities Commission (PUC), and interested persons. Although there is competition among service providers for urban business customers, most everyone agreed that urban residential and rural customers are largely without competitive, alternative providers. The committee was given many suggestions on what the General Assembly can do to promote competition in Colorado, as discussed below.

***Incumbent provider.*** US WEST, Colorado's incumbent provider, believes the market needs to be further deregulated in order for there to be effective competition. In their opinion, competition will not be reached through regulation. Instead, the market needs to be deregulated in order to encourage competition. Also, US WEST believes they are more strictly regulated than are new entrants into the market. US WEST would like to see the role of the PUC become less regulatory. US WEST believes the only areas that should be regulated by the PUC are basic service, fraud, consumer protection, emergency services, and service quality.

***New entrant providers.*** New entrants into the local telecommunications market, including AT&T, MCI WORLDCOM, McLeod USA, and NextLink, do not feel that total deregulation should occur. If the market is completely deregulated, they fear that US WEST, as the incumbent provider, will then be an unregulated monopoly. Many of the new providers believe the current telecommunications law does provide the guidelines needed for a successful transformation to a competitive market. The new entrants recommend that regulation by the PUC be continued in order to not only ensure that the consumer has certain protections, but also to ensure that providers are cooperating with one another when dealing with interconnection and co-location. In fact, many of the new providers believe the PUC needs to be given stronger enforcement powers in order for competition to become a reality in Colorado.

***State regulators and overseers.*** Both the PUC and the Office of Consumer Council (OCC) also suggest that regulation of the local market needs to continue in order to reach effective competition. Regulation is needed to protect the consumer as well as to ensure that the incumbent provider is cooperating with new entrants through interconnection and co-location. The OCC believes that basic services need to be more highly regulated than advanced services and that regulation should continue even once the market is competitive. The PUC agrees with the need for regulation, however, they do acknowledge that US WEST is more strictly regulated than other providers. Consequently, the PUC is currently working with US WEST to ease some of these restrictions. For example, US WEST was recently removed from rate of return regulation and was granted pricing flexibility.

***Recommendations.*** The committee concluded that effectively competitive services should be relieved of regulation and made subject to market forces. In response to testimony, the committee recommends Bill C deregulating retail directory assistance and private line services.

## **Rural Access**

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Access to telecommunication services in rural Colorado was discussed by the committee. Providing telecommunications services, especially advanced services, to rural Colorado is expensive and often difficult. As a result, many believe competition will not emerge in rural areas. The committee heard testimony from several groups with suggestions on how telecommunications in rural Colorado can be improved.

In rural areas, it is very expensive to provide the local loop that connects households and businesses to the switch in which calls are directed. Due to sparse populations and long distances between homes and businesses, it is expensive for providers to provide service to these individuals. As a result, the universal service support mechanism, commonly known as the high cost support mechanism, provides subsidies to providers in rural areas in order to keep rates for rural customers equal to those for urban customers. Although there are some small independent telecommunication companies which provide service to Colorado, some are experiencing problems with interconnecting and co-locating with US WEST. Also, there is a fear amongst small independent rural telecommunication companies that support from both the federal and state universal service support will diminish, making it impossible for providers in rural areas to keep rates low for their customers. The Colorado Telecommunications Association requested that the legislature adopt a common definition of rural telecommunications provider.

Residents and businesses in rural areas are largely without access to advanced telecommunication services (services above basic service), e.g., high speed Internet access service. Many rural residents believe this puts rural Colorado at a disadvantage for attracting businesses and industries. The problem is not that there is not the technology to provide advanced services to rural areas, but rather that it is extremely expensive. Most providers believe it is not profitable to provide advanced services to rural Colorado at this point in time. However, as technology changes, providing advanced services to rural areas becomes more of a reality. For example, some companies and individuals believe that the use of wireless, satellite, and cable technologies may result in improved, more cost effective telecommunication services to rural residents.

Suggestions were made on improving rural telecommunication services. One suggestion for improving rural access to telecommunication services is for the state to offer incentives for providers to do business in rural areas. Incentives identified could be in many forms, such as tax incentives, decreased regulation for rural providers, or subsidies for providing certain services. Another suggestion was to create a state high cost mechanism for advanced services. The mechanism would work in much the same way as the universal service support mechanism for basic services, but the money would be used to provide advanced services to rural and other high cost areas.

**Recommendations.** The committee recommends Bill B which defines a new term "rural telecommunications provider" as it is applied to the regulation of local exchange

providers, and Bill F which creates a Telecommunications and Technologies Council directing it to establish goals and plans to meet the economic and developmental telecommunications needs of the state.

## **Basic and Advanced Services**

***Basic service.*** The committee heard testimony on how basic and advanced service could be improved in Colorado. Rural providers face problems and fear that state and federal universal service support will be scaled back, resulting in insufficient support for rural providers. Rural providers testified that if universal service support is limited to the primary line in a residence and the rate cap is not lifted from additional lines, rural providers could be forced out of business due to their inability to charge more for additional lines, while not receiving universal service support for these lines. More than 60 percent of rural telecommunication providers' revenues come from universal service support and access fees.

US WEST told the committee that consumers are commonly requesting high speed data services and believe it should be included in the definition of basic service. (The PUC recently recommended that the definition of basic service not be changed to include high speed data services.) The problem with including high speed data in basic service is that the current rate cap for basic service would not be sufficient to cover the increased costs of including high speed data service.

***Advanced service.*** The discussion surrounding advanced services mainly focused on the difficulty of providing advanced services in rural areas and the cost to provide such services. In urban areas, advanced services are most commonly carried through copper or fiber optic cable lines. This is possible because the distances between providers' main switch stations and homes or businesses are not great. In rural areas, most consumers live distances that are too far from the main switch station for advanced services to be provided through copper or cable lines. As a result, wireless options, including satellite, appear to be the best way for rural users to receive advanced services. The problem, then, is not the ability to provide advanced services, but the costs associated in doing so. It was suggested by several providers that the legislature should look at providing partial tax credits or other incentives to make it possible and profitable for rural providers to increase access to advanced services for their customers.

Another problem expressed by MCI WORLDCOM in providing advanced services in rural areas is that upgraded interconnections do not exist. Until US WEST upgrades their rural connections, other providers are greatly limited in the services they can offer rural consumers. US WEST testified that it is expensive and time consuming to upgrade their system. US WEST also believes that the regulations on advanced services are still being established. Until it is clear how advanced services will be regulated, in particular with regard to the resale of such services, US WEST is hesitant to make substantial changes to their network that accommodate advanced services.



**Recommendations.** Bill D provides for continued regulation over services that are not subject to economic regulation and provides for an expedited process to enforce compliance in such matters. The bill requires the PUC to adopt rules establishing minimum service quality standards and creates a new regulatory scheme in which specific retail services found to be effectively competitive would be subject only to general supervision by the PUC.

## **Deregulation**

The issue of deregulation was considered several times by the committee. Overall, new entrants into the local market fear that if the local telephone market is deregulated too quickly, US WEST will be able to price the new entrants out of the market and become an unregulated monopoly. US WEST suggested that the process of deregulation needs to be expedited. US WEST believes their competitors have an unfair advantage because the emerging providers are not as strictly regulated as US WEST. Also, the PUC, OCC, and many of the emerging providers expressed concern that deregulation be largely limited to price deregulation and that the PUC continue to regulate consumer complaints, service quality issues, and issues between providers. The OCC noted that it is important to ensure that service quality is maintained and that prices are not adversely affected when deregulating the market.

In testimony provided by AT&T, it was brought to the committee's attention that there are risks in deregulating the market. For example, if deregulation results in the absence of a means for consumers and competitors to be protected by a regulatory board, then the only means of recourse would be to file a lawsuit. AT&T does not believe this would be good for the industry. Also, if the market is deregulated before services are competitive, for example access charges, then the incumbent provider could price its competitors out of the market. In order to avoid these risks, AT&T made several suggestions to the committee. First, AT&T recommended that the legislature direct the PUC to establish a time line for moving access charges to cost. Second, the legislature should direct the PUC to evaluate the removal of all implicit subsidies. Third, the legislature should require the PUC to adopt an expedited complaint process for service quality issues as well as issues between providers. Fourth, the legislature should encourage the process of deregulation as it currently appears in statute. MCI WORLDCOM echoed these same concerns and suggested that a new category be established for telecommunication services that are newly emerging as competitive. This would be an interim step in the process rather than moving the services from Part 3 regulation directly to Part 4 deregulation as provided for in current statute.

US WEST stated that it is not opposed to maintaining regulation on service quality and provider issues. US WEST also agrees that an expedited process for dealing with complaints would be beneficial. However, they suggest that the PUC should not have the ability to levy fines directly. Instead, US WEST believes the customer who was wronged

should get a service credit from the provider rather than the provider paying a fine to the state. Also, US WEST believes certain services are currently competitive and should be deregulated. These services are directory assistance, in-state long distance, and high end private line. US WEST agrees with MCI on placing a service such as high end private lines in a new category of deregulation, but that directory assistance should be moved directly to Part 4 deregulation.

***Recommendations.*** Bill A replaces traditional utilities regulation of telecommunications providers with a competitive market by a date certain. Bill E prohibits implicit subsidies for telecommunication services and requires that explicit subsidies be limited.



# SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

**Bill A — Transition of Telecommunications Regulation from Traditional Utilities Regulation to a Competitive Market.**

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Bill A, effective July 1, 2003, replaces the traditional utilities regulation of telecommunications providers with a competitive market. The PUC would retain jurisdiction: 1) over a newly defined basic local exchange service; 2) to designate one or more basic local exchange service providers until a to-be-determined date certain; 3) over optional, simplified regulation of rural exchanges; 4) over existing agreements or proceedings between or among the PUC and a provider or providers; 5) to investigate and enforce acts that may violate the "Colorado Consumer Protection Act" or the "Unfair Practices Act"; 6) to enforce laws against "slamming" and "cramming"; 7) to administer and regulate the high cost fund and 911 emergency services; and 8) to collect information demonstrating sufficient financial ability to provide telecommunication services for providers providing telecommunication services.

This bill is assessed as having no fiscal impact.

**Bill B — Adoption of a Definition of "Rural Telecommunications Provider."**

---

Bill B defines a new term, "rural telecommunications provider," that conforms substantially with the definition of a "rural telephone company" in the federal Telecommunications Act of 1966 and PUC adopted rules and applies the new definition to applicable existing sections of law.

This bill is assessed as having no fiscal impact.

**Bill C — Deregulation of Retail Sales of Specified Telecommunication Services, and, Deregulation of Retail Directory Assistance and Private Line Services.**

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Directory assistance and certain, defined, private line services are exempted from regulation by the PUC pursuant to Bill C. The bill removes directory assistance from the regulatory definition of operator services and requires the PUC to adopt a single statewide

benchmark rate applicable to nonoptional operator services. It removes the PUC's authority to regulate the terms and conditions under which certain private line services are offered and provided at retail.

This bill is assessed as having no fiscal impact.

**Bill D — Continuing Jurisdiction of the Public Utilities Commission Over Telecommunications Services That Are Not Subject to Traditional Forms of Economic Regulation.**

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Section 1 of Bill D authorizes the PUC to establish minimum quality standards governing the provision of wholesale, interconnection, and transport services. The bill prohibits a telecommunications provider from discriminating against another provider. The PUC would be responsible for setting wholesale prices at or above cost for specific services and would set minimum retail prices at or above the wholesale prices. The bill also allows the PUC to geographically deaverage retail prices for telecommunications services once the prices for wholesale rates for unbundled network elements have been deaveraged as well. The bill provides for an expedited complaint procedure for the PUC to handle complaints and disputes between providers. If a provider is found to be in violation of a prohibited act, the PUC could fine the violator.

Section 2 requires the PUC to adopt, and periodically revise as necessary, rules establishing minimum service quality standards. At a minimum, the service quality standards should include: held orders; held orders of thirty days; trouble report rate; network blockage; trouble reports cleared; and repair center accessibility. If a provider is found to be in violation of the service quality standards, the PUC can require the provider to submit a plan for improving its performance to meet the standards. If the provider does not meet the goals of their plan within six months, the PUC may impose penalties against the provider. The penalty may be in the form of a cash payment, bill credits to the provider's customers, or targeted investments directed by the PUC to address specific issues of service quality.

Section 3 of the bill creates a new regulatory scheme in which specific retail services, except for switched access, found to be effectively competitive, would be subject only to general supervision by the PUC. The PUC would be precluded from regulating the retail pricing of these services, but would retain regulatory power over service quality, wholesale pricing, and antitrust-type issues.

This bill is assessed as having a fiscal impact to Fixed Utilities Cash Fund of \$71,758 and 1.0 FTE in FY 2000-01.

**Bill E — Prohibition on Implicit Subsidies for Telecommunications Services; Requiring that Explicit Subsidies be Limited; and Requiring the PUC to Supervise a Reduction in Intrastate Switched Access Rates.**

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Bill E requires the PUC to issue orders to require, by December 1, 2002, the removal of all implicit subsidies from wholesale provider-to-provider rates, including rates for switched access. These implicit subsidies would be made explicit and recovered through the universal service support mechanism *to the extent determined appropriate by the PUC*. The PUC may grant small local exchange providers a waiver of the requirements for a time period not to exceed 24 months.

This bill is assessed as having a conditional fiscal impact to all funds of up to \$247,684 a year, with an impact of up to \$144,482 beginning in FY 2002-03.

**Bill F — Creation of the State Telecommunications and Technologies Council.**

A nine-member Telecommunications and Technologies Council is created by Bill F. The members of the council would be appointed by the Governor and confirmed by the Senate. In consultation with public institutions, industry, and the affected public, the council would develop goals and plans for meeting the economic and developmental telecommunication needs of the state and its citizens. The council's duties are to: study the status of basic and advanced telecommunications services; identify the major types of telecommunications infrastructure in different geographic areas of the state; develop a plan to maximize federal funding, minimize state expenditures, and create development incentives; and report annually to the Governor and the General Assembly.

This bill is assessed as having a General Fund fiscal impact of \$14,746 beginning in FY 2000-01.

# GLOSSARY OF TELECOMMUNICATIONS TERMS

**Advanced features** - custom calling features such as speed dialing, 3-way calling, call forwarding, and call waiting. [C.R.S. § 40-15-102]

**Basic local exchange service or basic service** - the telecommunications service which provides a local dial tone line and local usage necessary to place or receive a call within an exchange area and any other services or features that may be added by the commission under section 40-15-502 (2). [C.R.S. § 40-15-102] The Commission definition of basic service currently includes: single-party line; touch tone dialing; access to long distance, 9-1-1, operator services and directory assistance; white page listing; 2400 bits per second data transmission rate; and a local calling area that reflects a community of interest.

**Competitive Local Exchange Carrier (CLEC)** - a Commission authorized telecommunications provider of basic local exchange service and such other services as identified in § 40-15-210 C.R.S. and who were granted a Certificate of Public Convenience and Necessity (CPCN) on or after February 8, 1996. (4 CCR 723-35)

**Cramming** - the addition of products and/or services to an end use customer's bill without the knowledge or appropriate consent of the customer.

**Divestiture** - on January 8, 1982 AT&T signed a Consent Decree with the U.S. Department of Justice. That settlement stipulated that on midnight December 31, 1983, AT&T would divest itself of its 22 telephone operating companies. According to the terms of the divestiture, those 22 operating Bell telephone companies would be formed into seven regional holding companies (called Regional Bell Operating Companies or RBOCs) of roughly equal size. Terms of the divestiture placed business restrictions on AT&T and RBOCs. The federal judge overseeing divestiture has slowly lifted many of the restrictions.

**Held Service Order** - an application by a customer for establishment of basic local exchange service in the service territory of the LEC and which the LEC is unable to fill by the customer's requested service date. The application shall be notice to the LEC that the customer desires service. Oral or written requests shall be considered an application for this purpose. [4 CCR 723-2(2.23.1)]

**Incumbent Local Exchange Carrier (ILEC)** - a telecommunications carrier authorized to provide local exchange services which was in existence prior to the date of enactment of the Telecommunications Act of 1996.

**Interconnection Agreement** - the accord resulting from the process of providing a connecting link between competing telecommunications networks for the completion of

local traffic that originates on the network of one telecommunications provider and terminates in the network of another telecommunications provider.

**Interexchange provider** - a firm that provides telecommunications services between exchange areas *i.e.* long-distance service.

**IntraLATA** - telecommunications service provided within one LATA [C.R.S. §40-15-102] Typically intraLATA means toll service, but can be other services.

**InterLATA** - telecommunications services between Local Access and Transport Areas (LATA). [C.R.S. §40-15-102] Typically interLATA refers to toll service, but can be other services.

**Jamming** - a practice of not allowing subscribers to switch service providers by imposing a freeze on their accounts.

**Local Access and Transport Area (LATA)** - created by Judge Greene at divestiture to divide the toll market between Bell Operating Companies and interexchange carriers. Switched calls with both endpoints within the LATA (intraLATA) are generally the sole responsibility of the local telephone company, while calls that cross the LATA boundaries (interLATA) are passed on to an interexchange long-distance carrier.

**Local Exchange Company (LEC)** - the local phone companies, which can be either a Bell Operating Company (BOC) or an independent (e.g. GTE) which provides local transmission services. Prior to divestiture, the LECs were called telephone companies or telcos. [Newton, *supra* at 311.]

**Operator Services** - services other than directory assistance provided either by live operators or by the use of recordings or computer-voice interaction to enable customers to receive individualized and select telephone call processing or specialized or alternative billing functions.

**Parts 1, 2, 3, 4, and 5** - sections of Article 15, Title 40 C.R.S., that regulate intrastate telecommunications services, as follows: Part 1, "General Provisions"; Part 2, "Regulated Telecommunications Services"; Part 3, "Emerging Telecommunications Service"; Part 4, "Deregulation"; and Part 5, "Telecommunications Policy and Planning".

**Rate Cap** - statutory price of residential basic local exchange service including the zone charges in effect May 24, 1995. (Rate cap is \$14.91 exclusive of zone charges.)

**Rate Averaging** - telephone companies' method for establishing uniform pricing by distance rather than on the relative cost (to them) of the particular route. The theory is that some routes are more heavily trafficked, have huge transmission equipment and achieve great economies of scale. Some routes, on the other hand, have little traffic, have small



transmission equipment and achieve no economies of scale. Therefore, it costs more to provide calls on these less-trafficked routes. However, the phone industry doesn't charge more to call small towns than big cities to reflect these economies of scale. The phone industry simply charges by distance, averaging its costs by distance. This is called rate averaging. [Newton, *supra* at 460-61.]

**Rate-of-Return Regulation: Rate Base** - a regulated telephone company's plant and equipment which forms the dollar base upon which a specified rate of return can be earned. The total invested capital on which a regulated company is entitled to earn a reasonable rate of return. [*Id* at 461.]

**Section 271 Filing** - a filing required of RBOCs under the Federal Telecommunications Act of 1996. Approval under this section of the Act involves satisfying a 14-point checklist in order to provide in-region interLATA long distance as well as the manufacturing of telecommunications equipment. The purpose of the filing is to assure that there is sufficient local exchange competition or the conditions are adequate to allow local exchange competition in a state prior to the RBOC entering the long distance or manufacturing markets within its region.

**Slamming** - any change in an end-use customer's pre-subscription to a telecommunications service provider subject to the jurisdiction of the Commission, which is made without appropriate consent of the customer.

**Switched Access** - the services or facilities furnished by a local exchange company or carrier, to interexchange providers or carriers, which allows them to use the basic local exchange network or the public switched network for origination or termination of interexchange telecommunications services. [4 CCR 723-2(2.40)]

**Unbundled Network Element (UNE)** - service and equipment such as local loops, local switches, and advanced features. In a competitive market CLECs purchase UNEs from an ILEC for subsequent resale to the CLEC's customers. They are often packaged in a variety of ways to meet the customer's needs.

**Universal Service** - originally conceived by the first chairman of the Bell System, Theodore Vail, refers to a situation where everyone who wants phone service has service, and is pursued on a policy and practical level by pricing basic service sufficiently low so anyone in the United States can afford it. Keeping residential service low has been one reason why local business service is usually priced much higher though the two services are usually identical: This is called an implicit subsidy. Other implicit subsidies (such as rate averaging, residual pricing, and access charges paid by interexchange carriers) were historically used by regulators to keep the price of residential service low. With the advent of competition, implicit subsidies are being removed and made explicit, such as the Colorado Universal Service Charge to support high cost areas. [Newton, *supra* at 596.]

# RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council Staff during the course of the hearings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver. For a limited period of time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

[www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/1999/99interim](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/1999/99interim).

<b>Meeting Summaries</b>	<b>Topics Discussed</b>
July 29, 1999	Overview of the current system of providing telecommunications services, how we got there, and where we are going. Briefing by regulators, providers, and consumers on opportunities to improve telecommunication services in Colorado.
August 31, 1999	Detailed explanation of how the telecommunications system works; briefing on the status of competition in the industry and how to promote competition in Colorado.
September 22, 1999	Briefing on the Colorado Institute of Technology; concluding comments on the status of competition in the industry and how to promote competition in Colorado; role of regulation in an effectively competitive market.
September 23, 1999	Basic and advanced service, competition, and deregulation issues, concerns, and problems; how the legislature can fix the problems and improve telecommunication services in Colorado.
October 27, 1999	Final committee action on draft legislation and the selection of bill sponsors.

## **Memoranda and Reports**

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### **Reports provided to the committee:**

*Glossary of Frequently Used Terms*, Colorado Public Utilities Commission staff, July 1999

*Reach Out, But Not Too Far - Telecommunications Regulation*, National Council of State Legislatures, May 1998

*Taming A Giant Takes Time*, CQ Outlook, May 1999

*Promoting Competition In Local Telecommunications*, Colorado Public Utilities Commission staff, December 1997

## Bill A

BY SENATOR Chlouber

### A BILL FOR AN ACT

CONCERNING THE TRANSITION OF TELECOMMUNICATIONS  
REGULATION FROM TRADITIONAL UTILITIES REGULATION TO A  
COMPETITIVE MARKET.

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#### Bill Summary

##### "Competitive Telecom Market"

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Interim Committee on Telecommunications Issues. Declares the superiority of managed competition over traditional utilities regulation. Effective July 1, 2003, replaces the traditional utilities regulation of telecommunications providers with a competitive market. Sets the new jurisdictional authoritative boundaries of the public utilities commission: (1) The commission will ensure that the first line basic local exchange services are provided pursuant to current statutes; (2) The commission will designate one or more local exchange service providers as the provider of last resort for a given geographic area; (3) Small basic local exchange providers may opt for simplified regulatory treatment; (4) Declares that existing agreements between the commission and a provider are not invalidated; (5) The commission will have authority to investigate acts that may violate the "Colorado Consumer Protection Act" or the "Unfair Practices Act"; (6) The commission will have authority to enforce laws against "slamming" and "cramming" (unauthorized providers or services); (7) The commission will continue to have authority to administer and regulate the high cost support mechanism and emergency 911

services; (8) The commission will collect information demonstrating sufficient financial ability to provide telecommunication services.

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

**SECTION** Article 15 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

#### PART 6

#### EXPEDITED DEREGULATION

**40-15-601. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY REAFFIRMS THE STATEMENTS AND POLICIES SET FORTH IN SECTIONS 40-15-101 AND 40-15-501 WITH RESPECT TO FURTHERING COMPETITION IN PROVIDING TELECOMMUNICATIONS SERVICES. THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT COMPETITIVE MARKET FORCES HAVE ADVANCED BEYOND THE REGULATORY STRUCTURES SET FORTH IN THIS ARTICLE AS CURRENTLY INTERPRETED BY THE PUBLIC UTILITIES COMMISSION AND THAT ALLOWABLE MARKETPLACE MECHANISMS DO NOT ACCURATELY REFLECT THE PRESENT STATE OF COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY. FOR THAT REASON, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO EXPEDITE THE TRANSITION OF TELECOMMUNICATIONS SERVICE AWAY FROM TRADITIONAL REGULATION TOWARDS COMPETITION, ALLOWING THE CITIZENS OF THIS STATE ACCESS TO BOTH TRADITIONAL AND ADVANCED SERVICES UNDER CONDITIONS THAT WILL PROVIDE BALANCE TO BOTH PROVIDERS AND USERS OF TELECOMMUNICATIONS SERVICES.

**State Universal Service Fund/High Cost Fund** - funded by a surcharge and is used to provide financial assistance to local exchange providers to help make basic local exchange service affordable. (Currently a surcharge of 3.1% is applied to all telephone charges to fund the fund.)

**Federal Universal Service Fund** - funded by a surcharge on interstate revenues and is used to subsidize lifeline (low income), e-rate (libraries, health care, schools), and rural telecommunication providers. [47 USC 254]

**Bill A**

BY SENATOR Chlouber

A BILL FOR AN ACT

CONCERNING THE TRANSITION OF TELECOMMUNICATIONS  
REGULATION FROM TRADITIONAL UTILITIES REGULATION TO A  
COMPETITIVE MARKET.

**Bill Summary**

**"Competitive Telecom Market"**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Interim Committee on Telecommunications Issues. Declares the superiority of managed competition over traditional utilities regulation. Effective July 1, 2003, replaces the traditional utilities regulation of telecommunications providers with a competitive market. Sets the new jurisdictional authoritative boundaries of the public utilities commission: (1) The commission will ensure that the first line basic local exchange services are provided pursuant to current statutes; (2) The commission will designate one or more local exchange service providers as the provider of last resort for a given geographic area; (3) Small basic local exchange providers may opt for simplified regulatory treatment; (4) Declares that existing agreements between the commission and a provider are not invalidated; (5) The commission will have authority to investigate acts that may violate the "Colorado Consumer Protection Act" or the "Unfair Practices Act"; (6) The commission will have authority to enforce laws against "slamming" and "cramming" (unauthorized providers or services); (7) The commission will continue to have authority to administer and regulate the high cost support mechanism and emergency 911

services; (8) The commission will collect information demonstrating sufficient financial ability to provide telecommunication services.

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

**SECTION** Article 15 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 6**

**EXPEDITED DEREGULATION**

**40-15-601. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY REAFFIRMS THE STATEMENTS AND POLICIES SET FORTH IN SECTIONS 40-15-101 AND 40-15-501 WITH RESPECT TO FURTHERING COMPETITION IN PROVIDING TELECOMMUNICATIONS SERVICES. THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT COMPETITIVE MARKET FORCES HAVE ADVANCED BEYOND THE REGULATORY STRUCTURES SET FORTH IN THIS ARTICLE AS CURRENTLY INTERPRETED BY THE PUBLIC UTILITIES COMMISSION AND THAT ALLOWABLE MARKETPLACE MECHANISMS DO NOT ACCURATELY REFLECT THE PRESENT STATE OF COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY. FOR THAT REASON, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO EXPEDITE THE TRANSITION OF TELECOMMUNICATIONS SERVICE AWAY FROM TRADITIONAL REGULATION TOWARDS COMPETITION, ALLOWING THE CITIZENS OF THIS STATE ACCESS TO BOTH TRADITIONAL AND ADVANCED SERVICES UNDER CONDITIONS THAT WILL PROVIDE BALANCE TO BOTH PROVIDERS AND USERS OF TELECOMMUNICATIONS SERVICES.

REGULATION UNDER THIS ARTICLE OR UNDER THE "PUBLIC UTILITIES LAW" EFFECTIVE JULY 1, 2003, AND SHALL BE CONSIDERED TO BE PART 4 TELECOMMUNICATIONS SERVICES, SUBJECT TO THE FOLLOWING:

(a) THE FIRST LINE PROVIDING BASIC LOCAL EXCHANGE SERVICE SHALL REMAIN SUBJECT TO COMMISSION JURISDICTION, AND THE COMMISSION SHALL HAVE THE AUTHORITY TO REGULATE PROVIDERS OF SUCH SERVICE TO THE EXTENT NECESSARY TO ASSURE THAT THE PROVISIONS OF SECTION 40-15-502 (3) ARE MET. A PROVIDER OF TELECOMMUNICATIONS SERVICES UNDER THIS SUBSECTION (1) SHALL BE CONSIDERED TO BE A PROVIDER OF LAST RESORT, AS SET FORTH IN SECTION 40-15-502 (6); EXCEPT THAT THE DEFINITION OF BASIC LOCAL EXCHANGE SERVICE SHALL BE AS SET FORTH IN SECTION 40-15-602 (1).

(b) UNTIL JULY 1, 2003, THE COMMISSION SHALL RETAIN JURISDICTION TO DESIGNATE ONE OR MORE BASIC LOCAL EXCHANGE SERVICE PROVIDERS THAT, AT THE TIME OF SUCH DESIGNATION, PROVIDE BASIC LOCAL EXCHANGE SERVICE IN A RELEVANT GEOGRAPHIC AREA OF THE STATE AS THE PROVIDER OF LAST RESORT IN SUCH AREA.

(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE COMMISSION FROM ACTING TO RECLASSIFY TELECOMMUNICATIONS SERVICES PURSUANT TO SECTION 40-15-207 OR 40-15-305 AT ANY TIME PRIOR TO JULY 1, 2003. THE COMMISSION SHALL UNDERTAKE SUCH RECLASSIFICATION IN SUCH A MANNER THAT WILL MOST ENHANCE THE TRANSITION PROCESS TOWARD DEREGULATION AS SET FORTH IN SUBSECTION (1) OF THIS SECTION.

IN NO EVENT SHALL ANY PROCEEDING UNDERTAKEN PURSUANT TO SECTION 40-15-207 OR 40-15-305 SUPERCEDE THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION WITH RESPECT TO THE DEREGULATION OF PART 2, PART 3, OR, TO THE EXTENT PERMITTED BY THE FEDERAL "TELECOMMUNICATIONS ACT OF 1996", PART 5 TELECOMMUNICATIONS SERVICES ON AND AFTER JULY 1, 2003. THE COMMISSION SHALL REPORT TO THE GENERAL ASSEMBLY BY JANUARY 15 OF THE YEARS 2001, 2002, AND 2003 ON THE STATUS OF ANY PROCEEDINGS EITHER PENDING OR COMPLETED UNDER THIS SUBSECTION (2).

(3) (a) BASIC LOCAL EXCHANGE PROVIDERS THAT SERVE ONLY RURAL EXCHANGES OF TEN THOUSAND OR FEWER ACCESS LINES MAY ELECT AT THEIR DISCRETION TO CONTINUE TO BE SUBJECT TO SIMPLIFIED REGULATORY TREATMENT PURSUANT TO RULES PROMULGATED BY THE COMMISSION UNDER SECTION 40-15-503 (2) (d).

(b) BASIC LOCAL EXCHANGE PROVIDERS THAT SERVE FEWER THAN FIFTY THOUSAND ACCESS LINES IN THE STATE MAY ELECT AT THEIR DISCRETION TO CONTINUE TO BE SUBJECT TO REGULATORY TREATMENT PURSUANT TO RULES PROMULGATED BY THE COMMISSION UNDER SECTION 40-15-203.5.

**40-15-604. Existing agreements or proceedings - not affected.** THIS PART 6 SHALL NOT BE CONSTRUED TO NULLIFY OR OTHERWISE AFFECT ANY EXISTING AGREEMENT OR PROCEEDING BETWEEN OR AMONG THE PUBLIC UTILITIES COMMISSION AND A PROVIDER OR PROVIDERS OF PART 2, PART 3, OR, TO THE EXTENT PERMITTED BY THE FEDERAL "TELECOMMUNICATIONS ACT OF 1996", PART 5 TELECOMMUNICATIONS SERVICES THAT WAS COMMENCED,

ENTERED INTO, OR IN EFFECT ON OR BEFORE THE EFFECTIVE DATE OF THIS SECTION, UNLESS ALL PARTIES TO SUCH AGREEMENT OR PROCEEDING AGREE TO TERMINATE THE AGREEMENT OR PROCEEDING AND BE SUBJECT TO THE PROVISIONS OF THIS PART 6 WITH RESPECT TO THE AGREEMENT OR PROCEEDING.

**40-15-605. Commission - authority.** (1) EFFECTIVE JULY 1, 2003, THE FOLLOWING AUTHORITY SHALL BE VESTED IN THE COMMISSION:

(a) THE COMMISSION SHALL HAVE THE AUTHORITY TO INVESTIGATE AND REFER TO THE APPROPRIATE ENFORCEMENT AGENCY ANY ALLEGED ACT OF A TELECOMMUNICATIONS PROVIDER WHICH MAY CONSTITUTE A VIOLATION OF THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S., OR THE "UNFAIR PRACTICES ACT", ARTICLE 2 OF TITLE 6, C.R.S.

(b) THE COMMISSION SHALL HAVE THE AUTHORITY TO ENFORCE SECTION 40-15-112, RELATING TO THE UNAUTHORIZED CHANGE OF A TELECOMMUNICATIONS PROVIDER;

(c) THE COMMISSION SHALL HAVE THE AUTHORITY TO ENFORCE VIOLATIONS RELATING TO UNAUTHORIZED TELECOMMUNICATIONS SERVICES PROVIDED AND CHARGED TO A SUBSCRIBER OF SERVICES.

(d) NOTWITHSTANDING ANY PROVISION OF THIS PART 6 TO THE CONTRARY, THE COMMISSION SHALL HAVE THE AUTHORITY TO ADMINISTER THE RULES PROMULGATED UNDER SECTION 40-15-503 (2) (b) (V) AND (2)(b)(VI) RELATING TO THE COLORADO HIGH COST SUPPORT MECHANISM AND ACCESS TO EMERGENCY 911 SERVICE.

(2) A PROVIDER OF TELECOMMUNICATIONS SERVICES PROVIDING SERVICES EXEMPT FROM REGULATION UNDER THIS PART 6 SHALL SUBMIT TO THE COMMISSION INFORMATION SHOWING SUFFICIENT FINANCIAL ABILITY TO PROVIDE SUCH SERVICES. ANY PROVIDER OF PART 2 OR PART 3 SERVICES HOLDING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 40-15-202 OR CERTIFICATED UNDER SECTION 40-15-302 SHALL BE DEEMED TO HAVE MET SUCH REQUIREMENT ONLY AS TO THE PART 2 OR PART 3 TELECOMMUNICATIONS SERVICES PROVIDED AT THE TIME OF EXEMPTION FROM REGULATION UNDER THIS PART 6.

(3) CONSISTENT WITH THE PROVISIONS OF SECTION 40-15-402, THE COMMISSION SHALL HAVE NO OTHER AUTHORITY OVER PRODUCTS, SERVICES, AND PROVIDERS DEREGULATED UNDER THIS PART 6.

**SECTION Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



DRAFT

Bill A

Colorado Legislative Council Staff  
**NO FISCAL IMPACT**

**Drafting Number:** LLS 00-0126  
**Prime Sponsor(s):** Sen. Chlouber

**Date:** December 7, 1999  
**Bill Status:** Telecom Interim Committee  
**Fiscal Analyst:** Will Meyer (303-866-4976)

**TITLE:** CONCERNING THE TRANSITION OF TELECOMMUNICATIONS REGULATION FROM TRADITIONAL UTILITIES REGULATION TO A COMPETITIVE MARKET.

**Summary of Assessment**

Effective July 1, 2003, this bill would replace the traditional utilities regulation of telecommunications providers with a competitive market, moving all of Part 2, Part 3, and to the extent permitted, Part 5, telecommunications services to Part 4, thereby exempting them from regulation by the Public Utilities Commission (PUC). The PUC would retain jurisdiction:

- over a newly defined basic local exchange service;
- to designate one or more basic local exchange service providers to be the provider of last resort, until a to-be-determined date certain;
- over optional, simplified regulation of rural exchanges;
- over existing agreements or proceedings between or among the PUC and a provider or providers;
- to investigate and enforce acts that may violate the "Colorado Consumer Protection Act" or the "Unfair Practices Act";
- to enforce laws against "slamming" and "cramming";
- to continue to administer and regulate the high cost fund and 911 emergency services; and
- to collect information about telecommunication services providers' financial ability to provide such telecommunication services. The bill would become effective upon signature of the Governor.

This bill is assessed as having no net fiscal impact to the PUC. It is estimated that any savings that would arise out of the deregulation of rates for Part 2 telecommunications providers and the moving of Part 3 providers to Part 4 would be offset by increased costs associated with the requirements that require the PUC to investigate violations of the Consumer Protection Act, including issues of predatory pricing, cross subsidization, telecommunications marketing fraud, and deceptive trade practices, together with added jurisdictional responsibilities over an increased number of providers. The bill, by requiring the PUC to maintain high quality telecommunications services, would also require the PUC to establish quality of service standards and to administer customer complaints. The provisions of this bill would not have any fiscal impact to any other agency of the state or unit of local government.

**Departments Contacted**

Regulatory Agencies

**Bill B**

BY REPRESENTATIVE Coleman

A BILL FOR AN ACT  
CONCERNING THE ADOPTION OF A DEFINITION OF "RURAL  
TELECOMMUNICATIONS PROVIDER".

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**Bill Summary**

**"Rural Telecommunications Providers"**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Interim Committee On Telecommunications Issues. Defines a new term, "rural telecommunications provider", that conforms substantially with the definition of a "rural telephone company" in the federal "Telecommunications Act of 1996". Applies the new definition to the existing sections concerning nondiscriminatory access charges, assurances of interconnections, simplified regulatory treatment for small local exchange providers, and consideration of opening of competitive local exchange market.

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

**SECTION 40-15-102**, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

(24.5) "RURAL TELECOMMUNICATIONS PROVIDER" MEANS A LOCAL EXCHANGE PROVIDER THAT MEETS ONE OR MORE OF THE FOLLOWING CONDITIONS:

(a) PROVIDES COMMON CARRIER SERVICE TO ANY LOCAL EXCHANGE CARRIER STUDY AREA, AS DEFINED BY THE COMMISSION, THAT DOES NOT INCLUDE EITHER:

(I) ANY INCORPORATED PLACE OF TEN THOUSAND INHABITANTS OR MORE, OR ANY PART THEREOF, BASED ON THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS; OR

(II) ANY TERRITORY, INCORPORATED OR UNINCORPORATED, INCLUDED IN AN URBANIZED AREA, AS DEFINED BY THE UNITED STATES BUREAU OF THE CENSUS AS OF AUGUST 10, 1993;

(b) PROVIDES TELEPHONE EXCHANGE SERVICE, INCLUDING EXCHANGE ACCESS, TO FEWER THAN FIFTY THOUSAND ACCESS LINES;

(c) PROVIDES TELEPHONE EXCHANGE SERVICE TO ANY LOCAL EXCHANGE CARRIER STUDY AREA, AS DEFINED BY THE COMMISSION, WITH FEWER THAN ONE HUNDRED THOUSAND ACCESS LINES; OR

(d) HAS LESS THAN FIFTEEN PERCENT OF ITS ACCESS LINES IN COMMUNITIES OF MORE THAN FIFTY THOUSAND INHABITANTS.

**SECTION 40-15-105 (2)**, Colorado Revised Statutes, is amended to read:

**40-15-105. Nondiscriminatory access charges.** (2) At its option, any ~~local exchange provider with fifty thousand or fewer access lines~~ RURAL

TELECOMMUNICATIONS PROVIDER may, in lieu of the provisions of subsection (1) of this section, remain under the jurisdiction of the commission pursuant to part 2 of this article. A ~~local exchange provider~~ RURAL TELECOMMUNICATIONS PROVIDER operating under this subsection (2) may at any time apply to the commission for regulatory relief under section 40-15-203 or 40-15-207. ~~Any such local exchange provider~~ SUCH RURAL TELECOMMUNICATIONS PROVIDER, upon the granting of regulatory relief, shall provide access services under the conditions established in subsection (1) of this section; except that the commission shall set the maximum price for access services for such provider.

**SECTION 40-15-109 (1)**, Colorado Revised Statutes, is amended to read:

**40-15-109. Assurance of interconnections - averaging of rates.**

(1) If a local exchange provider does not have interconnection with an interexchange provider, the commission may order any provider of interexchange service in the state to interconnect with the local exchange provider. Nothing in this subsection (1) shall require a ~~local exchange provider with less than fifty thousand lines~~ RURAL TELECOMMUNICATIONS PROVIDER to provide interexchange telecommunications service.

**SECTION 40-15-203.5**, Colorado Revised Statutes, is amended to read:

**40-15-203.5. Simplified regulatory treatment for small local exchange providers.** The commission, with due consideration of the public interest, quality of service, financial condition, and just and reasonable rates,

shall grant regulatory treatment ~~which~~ THAT is less comprehensive than otherwise provided for under this article to ~~small local exchange providers that serve fewer than fifty thousand access lines in the state~~ RURAL TELECOMMUNICATIONS PROVIDERS AS DEFINED IN SECTION 40-15-102 (24.5). The commission shall issue policy statements and rules and regulations ~~which~~ THAT maintain reasonable regulatory oversight and that consider the cost of regulation in relation to the benefit derived from such regulation. These rules and regulations shall encourage the cost effective deployment and use of modern telecommunications technology. All proposed rules applicable to ~~small local exchange providers which~~ RURAL TELECOMMUNICATIONS PROVIDERS THAT come before the commission shall consider the economic impact on ~~small local exchange providers~~ RURAL TELECOMMUNICATIONS PROVIDERS and their subscribers. The commission and ~~small local exchange providers~~ RURAL TELECOMMUNICATIONS PROVIDERS are encouraged to work together in a cooperative and proactive fashion to implement this section. ~~Initial implementation of this section shall consist of a review of the rules in existence on July 1, 1993, presentation of proposed changes to the commission no later than January 1, 1994, and adoption of simplified rules no later than June 30, 1994.~~

**SECTION 45-15-503 (2) (d)**, Colorado Revised Statutes, is amended to read:

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

(2) (d) The commission shall adopt rules providing for simplified regulatory treatment for ~~basic local exchange providers that serve only rural exchanges of ten thousand or fewer access lines~~ RURAL TELECOMMUNICATIONS PROVIDERS AS DEFINED IN SECTION 40-15-102 (24.5). Such simplified treatment may include, but shall not be limited to, optional methods of regulatory treatment that reduce regulatory requirements, reduce the financial burden of regulation, and allow pricing flexibility. Such simplified treatment may also allow extensions of time for the implementation of requirements under this part 5 in rural exchanges for which there are no competing basic local exchange providers certified

**SECTION Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

**DRAFT**

**Bill B**

*Colorado Legislative Council Staff*  
**NO FISCAL IMPACT**

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**Drafting Number:** LLS 00-0244  
**Prime Sponsor(s):** Rep. Coleman

**Date:** December 7, 1999  
**Bill Status:** Telecom Interim Committee  
**Fiscal Analyst:** Will Meyer (303-866-4976)

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**TITLE:** CONCERNING THE ADOPTION OF A DEFINITION OF "RURAL TELECOMMUNICATIONS PROVIDER".

**Summary of Assessment**

This bill would define a new term, "rural telecommunications provider", that conforms substantially with the definition of a "rural telephone company" in the federal "Telecommunications Act of 1996". The bill applies the new definition to existing sections of statute related to the regulation of local exchange providers. The bill would become effective upon signature of the Governor.

The Public Utilities Commission (PUC) has already adopted this definition in its rules and would not impact their workload. This bill would not have any impact on any other agency of the state, or unit of local government. Therefore, this bill is assessed as having no fiscal impact.

**Departments Contacted**

Regulatory Agencies

**Bill C**

BY \_\_\_\_\_

**A BILL FOR AN ACT**

CONCERNING THE DEREGULATION OF RETAIL SALES OF SPECIFIED TELECOMMUNICATIONS SERVICES, AND, IN CONNECTION THEREWITH, DEREGULATING RETAIL DIRECTORY ASSISTANCE AND PRIVATE LINE SERVICES.

**Bill Summary**

**"Deregulate Retail Telecom Services"**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Interim Committee on Telecommunications Issues. Removes directory assistance from the regulatory definition of operator services. Requires the commission to adopt a single statewide benchmark rate applicable to nonoptional operator services. Exempts retail directory assistance services from regulation under the "Public Utilities Law".

Removes the public utilities commission's (PUC's) authority to regulate the terms and conditions under which private line services, other than private line service with a capacity of less than 24 voice-grade circuits, are offered and provided at retail. Removes a provision for PUC review of private line services.

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

**SECTION 40-15-102 (20),** Colorado Revised Statutes, is amended to read:

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

(20) "Operator services" means services, OTHER THAN DIRECTORY ASSISTANCE, provided either by live operators or by the use of recordings or computer-voice interaction to enable customers to receive individualized and select telephone call processing or specialized or alternative billing functions. "Operator services" includes nonoptional operator services, optional operator services, and operator services necessary for the provision of basic local exchange service.

**SECTION 40-15-301 (2) (f),** Colorado Revised Statutes, is amended to read:

**40-15-301. Regulation by the commission.** (2) The following telecommunications products, services, and providers are declared to be initially subject to regulation pursuant to this part 3 and subject to potential deregulation under section 40-15-305:

(f) Private line service ~~subject to the provisions of section 40-15-308~~ WITH A CAPACITY OF LESS THAN TWENTY-FOUR VOICE GRADE CIRCUITS;

**SECTION 40-15-302 (5),** Colorado Revised Statutes, is amended to read:

**40-15-302. Manner of regulation - rules.** (5) Consistent with the provisions of section 40-15-301 (1), rates for nonoptional operator services shall allow the provider of such services the opportunity to earn a just and reasonable return on the associated used and useful investment, including but not limited to equipment costs incurred to originate such services. Such rates shall be set at or below a SINGLE STATEWIDE benchmark rate as determined by the commission THAT IS APPLICABLE TO ALL PROVIDERS, unless the commission approves a higher rate. THE STATEWIDE BENCHMARK RATE SHALL APPLY TO ALL NONOPTIONAL OPERATOR SERVICES REGARDLESS OF WHETHER SUCH SERVICES ARE PROVIDED IN CONNECTION WITH INTRALATA OR INTERLATA TELECOMMUNICATIONS SERVICE. If the commission approves a rate higher than the benchmark rate, and the commission determines that disclosure of the rate to customers is in the public interest, the commission may require the nonoptional operator services provider to orally disclose, to the person responsible for payment of the telephone call, the total charges for the call and that such charges are higher than the benchmark rate. The nonoptional operator services provider shall make such disclosure at no charge to the caller and before the call is connected, allowing the caller to disconnect before incurring any charges. If the commission finds, after notice and opportunity for a hearing, that a nonoptional operator services provider has violated this subsection (5), the commission may, in addition to such other enforcement powers as may be authorized in this title, order any regulated telecommunications service provider to block access to the nonoptional operator

services provider for all intrastate operator-handled calls. A regulated telecommunications provider that blocks the access of a nonoptional operator services provider in compliance with an order of the commission and incurs attorney fees or costs to defend such action shall be entitled to recover its costs and attorney fees in each such proceeding. The commission shall promulgate rules necessary to implement this subsection (5). ~~no later than thirty days after August 7, 1996.~~

**SECTION Repeal.** 40-15-308, Colorado Revised Statutes, is repealed as follows:

~~**40-15-308. Private line services.** Private line services shall be reviewed with all due haste pursuant to section 40-15-305.~~

**SECTION** 40-15-401 (1), Colorado Revised Statutes, is amended to read:

**40-15-401. Services, products, and providers exempt from regulation.** (1) The following products, services, and providers are exempt from regulation under this article or under the "Public Utilities Law" of the state of Colorado:

- (a) Cable services as defined by section 602(5) of the federal "Cable Franchise Policy and Communications Act of 1984";
- (b) Cellular telecommunications services;
- (c) Mobile radio service;
- (d) Radio paging service;

(e) New products and services other than those included in the definition of basic local exchange service;

(f) Centron and centron-like services;

(g) Special arrangements;

(h) Special assemblies;

(i) Informational services;

(j) Optional operator services;

(k) Advanced features offered and provided to nonresidential customers with more than five lines;

(l) Special access;

(m) Public coin telephone service;

(n) RETAIL DIGITAL PRIVATE LINE SERVICE;

(o) RETAIL PRIVATE LINE SERVICE WITH A CAPACITY OF AT LEAST TWENTY-FOUR VOICE GRADE CIRCUITS;

(p) RETAIL DIRECTORY ASSISTANCE.

**SECTION Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



DRAFT

Bill C

*Colorado Legislative Council Staff*  
**NO FISCAL IMPACT**

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**Drafting Number:** LLS 00-0247  
**Prime Sponsor(s):** Sen. Musgrave

**Date:** December 7, 1999  
**Bill Status:** Telecom Interim Committee  
**Fiscal Analyst:** Will Meyer (303-866-4976)

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**TITLE:** CONCERNING THE DEREGULATION OF RETAIL SALES OF SPECIFIED TELECOMMUNICATIONS SERVICES, AND, IN CONNECTION THEREWITH, DEREGULATING RETAIL DIRECTORY ASSISTANCE AND PRIVATE LINE SERVICES.

**Summary of Assessment**

This bill would exempt retail directory assistance and certain, defined, private line services from regulation by the Public Utilities Commission (PUC). The bill removes directory assistance from the regulatory definition of operator services and requires the PUC to adopt a single statewide benchmark rate applicable to non operator services. The bill also removes the PUC's authority to regulate the terms and conditions under which certain private line services are offered and provided at retail. The bill would become effective upon signature of the Governor.

Private line services have effectively been deregulated by the PUC. The bill will require the PUC to establish a new benchmark for non optional operator services. This would be accomplished as part of the normal work of the PUC staff. With regards to directory assistance, the PUC has not been involved in setting tariffs for directory assistance since 1990. So deregulation of directory assistance would not impact their current workload. The bill would not have any fiscal impact on the PUC, any other agency of the state, or unit of local government. Therefore, this bill is assessed as having no fiscal impact.

**Departments Contacted**

Regulatory Agencies

Revenue

## Bill D

BY REPRESENTATIVE Young

### A BILL FOR AN ACT

CONCERNING THE CONTINUING JURISDICTION OF THE PUBLIC UTILITIES  
COMMISSION OVER TELECOMMUNICATIONS SERVICES THAT ARE NOT  
SUBJECT TO TRADITIONAL FORMS OF ECONOMIC REGULATION.

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#### Bill Summary

##### "New Bucket For Competitive Telecom Svcs"

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Interim Committee on Telecommunications Issues. Authorizes the public utilities commission (PUC) to adopt standards governing the provision of wholesale, interconnection, transport, and termination services.

Prohibits telecommunications providers from discriminating in the provision of interconnection and related services or from unreasonably refusing or delaying access to facilities or information necessary for the provision of basic service. Requires the sharing of proprietary information, subject to protective agreements, and requires compliance with all applicable contracts and PUC rules and tariffs.

Appoints the PUC as referee of disputes. Directs the PUC to set wholesale prices at or above cost for specific services and network elements and to set minimum retail prices at or above such wholesale prices.

Allows geographic deaveraging of retail rates, so long as such deaveraging is accompanied by a simultaneous and proportionate deaveraging of corresponding wholesale rates and rates charged for unbundled network elements.

Adopts an expedited complaint procedure for the handling of complaints concerning interconnection and related pricing. Provides the respondent provider with the defense that its failure to comply with service quality standards resulted from the failure of another provider to comply with its interconnection obligations.

Authorizes the PUC to require the submission of a service improvement plan in lieu of imposing monetary penalties in the first instance. Permits the commission to order bill credits in an amount that equitably reflects the impairment of service suffered by the provider and its customers. Adopts a penalty structure ranging from \$100 to \$50,000 per day. Limits total penalties to 2% of a provider's gross annual intrastate revenues from telecommunications operations.

Directs the PUC to adopt rules setting forth minimum service quality standards applicable to all providers of retail telecommunications service. Where standards are not met, authorizes the PUC to approve or disapprove specific plans for improvement and to impose penalties on providers who fail to comply.

Allows penalties to be satisfied through customer credits or targeted investments, subject to PUC approval. Allows a provider subject to penalties the opportunity to show that its service quality problems were the result of the failure of another provider to meet its obligations regarding interconnection. Limits the total amount of penalties to 2% of a provider's gross intrastate revenue from telecommunications operations.

Creates a new regulatory scheme, under which specific services previously regulated under part 2 or part 3 would be subject only to general supervision by the PUC concerning the following:

- Complaints against a provider of telecommunications services, whether lodged by a consumer or by another provider, concerning quality of service, interconnection issues, etc.;
- Fraud, negligence, adherence to service standards, and other customer service issues;
- General tariff requirements; and
- Wholesale pricing and antitrust-type issues.

Specifically precludes PUC jurisdiction over retail pricing of services subject to the new regulatory scheme. Makes such regulation conditional upon a finding by the PUC that there is effective competition in the relevant market and that such competition will promote the provision of adequate and reliable service at competitive rates.

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

**SECTION** Part 1 of article 15 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**40-15-105.5. Interconnection among providers - definitions - authority of commission - complaints - procedure - penalties.** (1) FOR PURPOSES OF THIS SECTION:

(a) THE TERMS "FACILITIES" AND "UNBUNDLED NETWORK ELEMENTS", TOGETHER WITH THE CONDITIONS, DUTIES, AND OBLIGATIONS ASSOCIATED THEREWITH, HAVE THE MEANINGS SET FORTH IN, AND SHALL BE CONSTRUED IN ACCORDANCE WITH, THE FEDERAL "TELECOMMUNICATIONS

ACT OF 1996", P.L. NO. 104-104, EFFECTIVE FEBRUARY 8, 1996, AND WITH RELEVANT RULES OF THE COMMISSION.

(b) "INCUMBENT LOCAL EXCHANGE PROVIDER" MEANS A TELECOMMUNICATIONS PROVIDER THAT IS AUTHORIZED BY THE COMMISSION TO PROVIDE LOCAL EXCHANGE SERVICE AND THAT WAS SO AUTHORIZED BEFORE JULY 1, 1995.

(2) **Prohibited acts.** (a) CONSISTENT WITH THE FEDERAL "TELECOMMUNICATIONS ACT OF 1996", P.L. NO. 104-104, ANY OTHER APPLICABLE FEDERAL LAW, AND THIS SECTION, THE COMMISSION SHALL ESTABLISH MINIMUM SERVICE QUALITY STANDARDS GOVERNING THE PROVISION OF WHOLESALE, INTERCONNECTION, TRANSPORT, AND TERMINATION SERVICES.

(b) A TELECOMMUNICATIONS PROVIDER SHALL NOT:

(I) DISCRIMINATE AGAINST ANOTHER PROVIDER OF TELECOMMUNICATIONS SERVICES BY UNREASONABLY REFUSING OR DELAYING ACCESS TO OR INTERCONNECTION WITH ITS FACILITIES;

(II) DISCRIMINATE AGAINST ANOTHER PROVIDER OF TELECOMMUNICATIONS SERVICES BY PROVIDING ACCESS TO UNBUNDLED NETWORK ELEMENTS OR SWITCHED ACCESS ON TERMS OR CONDITIONS LESS FAVORABLE THAN THOSE IT PROVIDES TO ITSELF AND ITS AFFILIATES;

(III) UNREASONABLY DEGRADE OR IMPAIR THE SPEED, QUALITY, OR EFFICIENCY OF ACCESS USED BY ANOTHER PROVIDER OF TELECOMMUNICATIONS SERVICES;

(IV) FAIL TO DISCLOSE IN A TIMELY AND UNIFORM MANNER, UPON REASONABLE REQUEST AND PURSUANT TO A PROTECTIVE AGREEMENT CONCERNING PROPRIETARY INFORMATION, ALL INFORMATION REASONABLY NECESSARY FOR THE DESIGN OF NETWORK INTERFACE EQUIPMENT, SERVICES, OR SOFTWARE THAT WILL MEET THE SPECIFICATIONS OF ITS NETWORK;

(V) FAIL TO PROVIDE A SERVICE, PRODUCT, OR FACILITY IN ACCORDANCE WITH APPLICABLE CONTRACTS AND WITH APPLICABLE TARIFFS AND RULES OF THE COMMISSION; OR

(VI) IMPOSE UNREASONABLE OR DISCRIMINATORY RESTRICTIONS ON UNBUNDLED NETWORK ELEMENTS OR THE RESALE OF ITS SERVICES.

(3) **Price regulation.** THE FOLLOWING PROVISIONS SHALL APPLY TO PRODUCTS AND SERVICES PROVIDED BY INCUMBENT LOCAL EXCHANGE PROVIDERS:

(a) **Minimum wholesale prices.** PRICES FOR WHOLESALE SERVICES AND UNBUNDLED NETWORK ELEMENTS, INCLUDING SWITCHED ACCESS, SHALL BE SET BY THE COMMISSION AND SHALL BE BASED UPON THE LONG-RUN INCREMENTAL OR MARGINAL COST OF EACH SERVICE. FOR SERVICES THAT ARE OR WERE REGULATED BY THE COMMISSION ACCORDING TO TRADITIONAL RATE-OF-RETURN REGULATION, THE COMMISSION SHALL CONDUCT A PROCEEDING IN WHICH, AFTER DETERMINING AND ESTABLISHING THE APPROPRIATE AND RELEVANT COSTS OF PROVIDING EACH SUCH SERVICE, THE COMMISSION SHALL EXPLICITLY SET THE WHOLESALE PRICE FOR EACH SUCH

SERVICE AT ITS LONG-RUN OR MARGINAL COST, PLUS A REASONABLE PROFIT AS DETERMINED BY THE COMMISSION BUT NOT TO EXCEED TWENTY PERCENT OF THE COST.

(b) **Minimum retail prices.** PRICES FOR RETAIL SERVICES SHALL BE SUBJECT TO A PRICE TEST BY THE COMMISSION TO ENSURE THAT THE PRICE OF AN INDIVIDUAL RETAIL SERVICE OR PACKAGE OF SERVICES DOES NOT FALL BELOW THE SUM OF THE WHOLESALE PRICES OF WHOLESALE ELEMENTS, AS DETERMINED BY THE COMMISSION, AND THE PRICES CHARGED FOR UNBUNDLED NETWORK ELEMENTS THAT CONSTITUTE SUCH RETAIL SERVICES OR PACKAGES OF RETAIL SERVICES. THE COMMISSION SHALL NOT ALLOW THE MINIMUM PRICE FOR A RETAIL SERVICE FOR END USERS TO BE SET LOWER THAN THE SUM OF THE WHOLESALE RATES THAT COMPETITIVE LOCAL EXCHANGE PROVIDERS PAY FOR THE UNBUNDLED NETWORK ELEMENTS AND THE WHOLESALE ELEMENTS, AS DETERMINED BY THE COMMISSION, THAT CONSTITUTE SUCH RETAIL SERVICES.

(c) **Geographic deaveraging of rates.** GEOGRAPHIC DEAVERAGING OF TARIFFED RETAIL PRICES FOR TELECOMMUNICATIONS SERVICES SHALL BE PERMITTED SO LONG AS IT IS ACCOMPANIED BY A SIMULTANEOUS AND PROPORTIONATE DEAVERAGING OF THE PRICES OF THE UNBUNDLED NETWORK ELEMENTS OR WHOLESALE ELEMENTS THAT CONSTITUTE THOSE SERVICES. THE COMMISSION SHALL NOT ALLOW DEAVERAGING OF PRICES FOR RETAIL SERVICES UNTIL THE COMMISSION ALLOWS THE DEAVERAGING OF THE WHOLESALE RATES THAT COMPETITIVE LOCAL EXCHANGE PROVIDERS PAY FOR THE UNBUNDLED

NETWORK ELEMENTS OR WHOLESALE ELEMENTS, AS DETERMINED BY THE COMMISSION, THAT CONSTITUTE SUCH RETAIL SERVICES.

**(4) Complaints - procedure.** (a) A COMPLAINT ALLEGING A VIOLATION OF THIS SECTION OR OF STANDARDS ADOPTED BY THE COMMISSION PURSUANT TO THIS SECTION SHALL BE FILED WITH THE COMMISSION AND HEARD BY THE COMMISSION OR, AT THE COMMISSION'S DISCRETION, BY AN ADMINISTRATIVE LAW JUDGE DESIGNATED BY THE COMMISSION.

(b) BEFORE TAKING ACTION UPON AN ALLEGED VIOLATION OF SERVICE QUALITY STANDARDS, THE COMMISSION SHALL GIVE THE RESPONDENT AN OPPORTUNITY TO DEMONSTRATE THAT THE VIOLATION RESULTED FROM THE FAILURE OF ANOTHER PERSON TO PROVIDE TELECOMMUNICATIONS INTERCONNECTION SERVICE THAT MET SUCH OTHER PERSON'S INTERCONNECTION OBLIGATIONS.

(c) A HEARING ON A COMPLAINT UNDER THIS SECTION SHALL BE CONDUCTED IN AN EXPEDITED MANNER CONSISTENT WITH THE FOLLOWING:

(I) THE COMPLAINT SHALL BE SERVED UPON THE RESPONDENT AND FILED WITH THE COMMISSION.

(II) AN ANSWER OR OTHER RESPONSIVE PLEADING TO THE COMPLAINT SHALL BE FILED WITH THE COMMISSION NOT MORE THAN TEN DAYS AFTER RECEIPT OF THE COMPLAINT. COPIES OF THE ANSWER OR RESPONSIVE PLEADING SHALL BE SERVED UPON THE COMPLAINANT AND UPON THE COMMISSION.

(III) A PREHEARING CONFERENCE SHALL BE HELD NOT LATER THAN FIFTEEN DAYS AFTER THE COMPLAINT IS FILED. HEARING ON THE COMPLAINT SHALL COMMENCE NOT LATER THAN THIRTY DAYS AFTER THE COMPLAINT IS FILED. WITHIN FORTY-FIVE DAYS AFTER THE COMPLAINT IS FILED, THE COMMISSION SHALL EITHER PREPARE A FINAL DECISION OR APPROVE AS FINAL THE DECISION OF THE ADMINISTRATIVE LAW JUDGE. THE FINAL DECISION SHALL BE ISSUED AS AN ORDER OF THE COMMISSION.

(IV) (A) IF THE COMMISSION OR ADMINISTRATIVE LAW JUDGE FINDS THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE COMMISSION SHALL, WITHIN FIVE BUSINESS DAYS, ORDER THE VIOLATOR TO REMEDY THE VIOLATION WITHIN A SPECIFIED PERIOD OF TIME. THE COMMISSION MAY PRESCRIBE SPECIFIC ACTION TO BE TAKEN BY THE VIOLATOR, INCLUDING, BUT NOT LIMITED TO, SUBMITTING A PLAN FOR PREVENTING FUTURE VIOLATIONS. THE COMMISSION SHALL REVIEW AND APPROVE OR DISAPPROVE THE PLAN. IN ADDITION, THE COMMISSION MAY ORDER BILL CREDITS, TO THE TELECOMMUNICATIONS PROVIDER WHOSE SERVICE AND CUSTOMERS WERE AFFECTED, IN AN AMOUNT THAT EQUITABLY REFLECTS THE IMPAIRMENT OF SERVICE SUFFERED BY THAT PROVIDER AND ITS CUSTOMERS.

(B) IF THE VIOLATION CONTINUES BEYOND THE TIME PERIOD SPECIFIED IN THE COMMISSION'S ORDER OR IF THE VIOLATOR DOES NOT MEET THE GOALS OF ITS IMPROVEMENT PLAN WITHIN THE TIME PERIOD SPECIFIED IN THE PLAN, ADDITIONAL PENALTIES MAY BE ASSESSED AGAINST THE VIOLATOR.

THE COMMISSION ON ITS OWN MOTION OR UPON THE MOTION OF AN INTERESTED PARTY MAY IMPOSE SUCH PENALTIES ON THE VIOLATOR.

(d) **Monetary penalties - limitations.** (I) A TELECOMMUNICATIONS PROVIDER SHALL BE LIABLE FOR A SUM OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN FIFTY THOUSAND DOLLARS PER DAY IF THE PROVIDER:

(A) HAS BEEN ORDERED BY THE COMMISSION TO REMEDY A VIOLATION OF A PROVISION OF THIS SECTION WITHIN A SPECIFIED PERIOD OF TIME AND FAILS OR REFUSES TO DO SO WITHIN THE TIME PERIOD SPECIFIED; OR

(B) FAILS OR REFUSES TO ABIDE BY OR MEET THE GOALS OF AN APPROVED PLAN OF IMPROVEMENT PURSUANT TO SUBPARAGRAPH (IV) OF PARAGRAPH (c) OF THIS SUBSECTION (4).

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), THE TOTAL ANNUAL PENALTIES IMPOSED ON A TELECOMMUNICATIONS PROVIDER UNDER THIS SECTION SHALL NOT EXCEED TWO PERCENT OF THE PROVIDER'S GROSS INTRASTATE REVENUE FROM THE SALE OF TELECOMMUNICATIONS SERVICES FOR THE CALENDAR YEAR PRECEDING THE YEAR IN WHICH THE PENALTIES ARE ASSESSED.

**SECTION** Part 2 of article 15 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**40-15-201.5. Service quality standards - enforcement - penalties.**

(1) IN ORDER TO ENSURE SAFE AND ADEQUATE SERVICE, THE COMMISSION

SHALL ADOPT, AND PERIODICALLY REVISE AS NECESSARY, RULES SETTING FORTH MINIMUM SERVICE QUALITY STANDARDS GOVERNING THE PROVISION OF RETAIL TELECOMMUNICATIONS SERVICES. SUCH STANDARDS SHALL APPLY TO ALL PROVIDERS OF TELECOMMUNICATIONS SERVICE SUBJECT TO THE COMMISSION'S JURISDICTION, WITHOUT REGARD TO THE PROVIDER'S PRIMARY LINE OF BUSINESS OR THE FORM OF REGULATION UNDER WHICH IT PROVIDES A SPECIFIC SERVICE.

(2) MINIMUM SERVICE QUALITY STANDARDS SHALL RELATE DIRECTLY TO SPECIFIC CUSTOMER IMPACT INDICES, WHICH SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, HELD ORDERS, TROUBLE REPORTS, REPAIR INTERVALS, AND CARRIER INQUIRY RESPONSE TIMES.

(3) (a) RETAIL TELECOMMUNICATIONS SERVICE QUALITY STANDARDS SHALL, AT A MINIMUM, ENCOMPASS THE FOLLOWING CATEGORIES:

(I) HELD ORDERS GENERALLY;

(II) HELD ORDERS OVER THIRTY DAYS;

(III) TROUBLE REPORT RATE;

(IV) NETWORK BLOCKAGE;

(V) TROUBLE REPORTS CLEARED; AND

(VI) REPAIR CENTER ACCESSIBILITY.

(b) SERVICE QUALITY STANDARDS SHALL APPLY TO NORMAL OPERATING CONDITIONS AND SHALL NOT ESTABLISH A LEVEL OF PERFORMANCE TO BE ACHIEVED DURING PERIODS OF EMERGENCY, CATASTROPHE, NATURAL

DISASTER, SEVERE STORM, OR OTHER EVENTS AFFECTING LARGE NUMBERS OF TELECOMMUNICATIONS CUSTOMERS. SERVICE QUALITY STANDARDS SHALL NOT APPLY TO EXTRAORDINARY OR ABNORMAL CONDITIONS OF OPERATION SUCH AS CONDITIONS RESULTING FROM WORK STOPPAGE OR SLOWDOWN, CIVIL UNREST, OR OTHER EVENTS THAT A TELECOMMUNICATIONS PROVIDER WOULD NOT REASONABLY BE EXPECTED TO ACCOMMODATE.

(4) IN ADOPTING STANDARDS PURSUANT TO THIS SECTION, THE COMMISSION SHALL, FOR EACH STANDARD ADOPTED, CONSIDER THE FOLLOWING:

(a) GENERAL INDUSTRY PRACTICE AND ACHIEVEMENT;

(b) NATIONAL DATA FOR SIMILAR STANDARDS;

(c) NORMAL OPERATING CONDITIONS;

(d) THE HISTORY AND ORIGINAL PURPOSE OF THE TELECOMMUNICATIONS NETWORK FOR WHICH THE STANDARDS ARE BEING CONSIDERED;

(e) TECHNOLOGICAL IMPROVEMENTS AND TRENDS; AND

(f) SUCH OTHER FACTORS AS THE COMMISSION DEEMS RELEVANT.

(5) **Enforcement - penalties.** (a) IF, AT ANY TIME AFTER THE ADOPTION OF STANDARDS PURSUANT TO THIS SECTION, A PROVIDER OF TELECOMMUNICATIONS SERVICE FAILS TO COMPLY WITH SUCH STANDARDS, THE COMMISSION SHALL REQUIRE SUCH PROVIDER TO SUBMIT A PLAN FOR IMPROVING ITS PERFORMANCE SO AS TO MEET THE STANDARDS. THE

COMMISSION SHALL REVIEW AND APPROVE OR DISAPPROVE THE PLAN. IF THE PROVIDER DOES NOT MEET THE GOALS OF ITS IMPROVEMENT PLAN WITHIN SIX MONTHS OR IF THE PLAN IS DISAPPROVED BY THE COMMISSION, THE COMMISSION MAY IMPOSE PENALTIES AGAINST THE PROVIDER.

(b) PENALTIES IMPOSED UNDER THIS SECTION MAY BE IN THE FORM OF CASH PAYMENTS OR, IN THE COMMISSION'S DISCRETION, MAY BE SATISFIED THROUGH:

(I) BILL CREDITS OFFERED TO THE PROVIDER'S CUSTOMERS IN A MANNER APPROVED BY THE COMMISSION; OR

(II) TARGETED INVESTMENTS, AS DIRECTED BY THE COMMISSION, TO ADDRESS SPECIFIC ISSUES OF SERVICE QUALITY.

(c) BEFORE IMPOSING A PENALTY UNDER THIS SECTION, THE COMMISSION SHALL ALLOW THE PROVIDER AN OPPORTUNITY TO DEMONSTRATE THAT A VIOLATION OF A MINIMUM SERVICE QUALITY STANDARD IS THE RESULT OF THE FAILURE OF A PERSON PROVIDING TELECOMMUNICATIONS INTERCONNECTION SERVICE TO MEET THAT PERSON'S INTERCONNECTION OBLIGATIONS.

(d) TOTAL ANNUAL PENALTIES IMPOSED ON A PROVIDER UNDER THIS SECTION SHALL NOT EXCEED TWO PERCENT OF THE PROVIDER'S GROSS INTRASTATE REVENUE FROM THE SALE OF TELECOMMUNICATIONS SERVICES FOR THE CALENDAR YEAR PRECEDING THE YEAR IN WHICH THE PENALTIES ARE ASSESSED.

**SECTION** Part 3 of article 15 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**40-15-302.3. Partial deregulation - continuing jurisdiction of commission over consumer protection and unfair trade practices.**

(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, UPON ITS OWN MOTION OR UPON APPLICATION BY ANY PERSON, THE COMMISSION SHALL REGULATE, PURSUANT TO THIS SECTION, SPECIFIC RETAIL TELECOMMUNICATIONS SERVICES, EXCEPT FOR SWITCHED ACCESS, THAT WERE INITIALLY SUBJECT TO ECONOMIC REGULATION UNDER PART 2 OR 3 OF THIS ARTICLE. REGULATION OF A SERVICE UNDER THIS SECTION SHALL BE CONDITIONED UPON A FINDING THAT THERE IS EFFECTIVE PRICE COMPETITION IN THE RELEVANT MARKET FOR SUCH SERVICE AND THAT SUCH COMPETITION WILL PROMOTE THE PROVISION OF ADEQUATE AND RELIABLE SERVICE AT COMPETITIVE RATES.

(2) IN DETERMINING WHETHER EFFECTIVE PRICE COMPETITION FOR A SPECIFIC TELECOMMUNICATIONS SERVICE EXISTS, THE COMMISSION SHALL MAKE FINDINGS, AFTER NOTICE AND OPPORTUNITY FOR HEARING, AND SHALL ISSUE AN ORDER BASED UPON CONSIDERATION OF THE FOLLOWING FACTORS AS THE COMMISSION DEEMS APPLICABLE IN PARTICULAR CASES:

(a) THE NUMBER OF OTHER PROVIDERS OFFERING SIMILAR SERVICES;

(b) THE ABILITY OF CONSUMERS TO OBTAIN THE SERVICE FROM OTHER PROVIDERS AT REASONABLE AND COMPARABLE RATES, ON COMPARABLE TERMS, AND UNDER COMPARABLE CONDITIONS; AND

(c) OTHER RELEVANT FACTORS, INCLUDING, BUT NOT LIMITED TO, THE RELEVANT GEOGRAPHIC AREAS. IN DETERMINING THE RELEVANT GEOGRAPHIC AREAS, THE COMMISSION SHALL NOT BE UNDULY RESTRICTIVE, BUT SHALL MAINTAIN THE INTEGRITY OF EXISTING COMMUNITIES OF INTEREST.

(3) **Time period for approval - conditions.** (a) THE COMMISSION SHALL APPROVE OR DENY AN APPLICATION FOR REGULATION UNDER THIS SECTION WITHIN NINETY DAYS AFTER THE FILING OF THE APPLICATION. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), IF THE COMMISSION HAS NOT ACTED ON ANY SUCH APPLICATION WITHIN SUCH NINETY-DAY PERIOD, THE APPLICATION SHALL BE DEEMED GRANTED.

(b) THE COMMISSION SHALL NOT APPROVE AN APPLICATION FOR REGULATION OF A SERVICE, NOR SHALL IT BE GRANTED AUTOMATICALLY UNDER PARAGRAPH (a) OF THIS SUBSECTION (3), UNTIL THE COMMISSION HAS DETERMINED WHETHER THE WHOLESALE PRICES FOR THE UNDERLYING ELEMENTS OF THE SERVICE CONFORM TO THE WHOLESALE-RETAIL PRICING PROVISIONS OF SUBSECTION (5) OF THIS SECTION. IF THE COMMISSION MAKES A DETERMINATION THAT THE PRICES BEING CHARGED DO NOT SO CONFORM, THEN, AS A CONDITION PRECEDENT TO THE GRANTING OF THE APPLICATION, THE COMMISSION SHALL SET SUCH PRICES AT A LEVEL THAT DOES SO CONFORM.



(4) REGULATION OF A SERVICE UNDER THIS SECTION SHALL MEAN A FORM OF REGULATION IN WHICH THE COMMISSION SHALL HAVE NO JURISDICTION TO SET THE RETAIL PRICE OF THE SERVICE, AS IT IS OFFERED TO THE GENERAL PUBLIC, BUT IN WHICH THE COMMISSION SHALL HAVE JURISDICTION TO ADOPT AND ENFORCE ALL NECESSARY RULES, STANDARDS, AND ORDERS CONCERNING THE FOLLOWING:

(a) COMPLAINTS REGARDING QUALITY OF SERVICE, INCLUDING BOTH THE RETAIL AND WHOLESALE ELEMENTS OF THE SERVICE;

(b) ADHERENCE TO ESTABLISHED QUALITY STANDARDS;

(c) CUSTOMER SERVICE ISSUES;

(d) FRAUD, NEGLIGENCE, AND OTHER DEFALCATIONS BY A PROVIDER OR ITS AGENTS OR SUBCONTRACTORS;

(e) GENERAL TARIFF REQUIREMENTS;

(f) OVERSIGHT OVER THE OFFERING OR WITHDRAWAL OF THE SERVICE IF IT IS USED OR CAN BE USED BY OTHER PROVIDERS FOR THE PROVISION OF THEIR OWN SERVICE; AND

(g) WHOLESALE-RETAIL PRICING REQUIREMENTS AND STANDARDS OF INTERCONNECTION.

(5) **Wholesale-retail pricing.** THE FOLLOWING PROVISIONS APPLY TO SERVICES PROVIDED BY AN INCUMBENT LOCAL EXCHANGE PROVIDER:

(a) **Minimum wholesale prices.** PRICES FOR WHOLESALE SERVICES AND UNBUNDLED NETWORK ELEMENTS, INCLUDING SWITCHED ACCESS, SHALL

BE SET BY THE COMMISSION AND SHALL BE BASED UPON THE LONG-RUN INCREMENTAL OR MARGINAL COST OF EACH SERVICE. FOR SERVICES THAT ARE OR WERE REGULATED BY THE COMMISSION ACCORDING TO TRADITIONAL RATE-OF-RETURN REGULATION, THE COMMISSION SHALL CONDUCT A PROCEEDING IN WHICH, AFTER DETERMINING AND ESTABLISHING THE APPROPRIATE AND RELEVANT COSTS OF PROVIDING EACH SUCH SERVICE, THE COMMISSION SHALL EXPLICITLY SET THE WHOLESALE PRICE FOR EACH SUCH SERVICE AT ITS LONG-RUN OR MARGINAL COST, PLUS A REASONABLE PROFIT AS DETERMINED BY THE COMMISSION BUT NOT TO EXCEED TWENTY PERCENT OF THE COST.

(b) **Minimum retail prices.** PRICES FOR RETAIL SERVICES SHALL BE SUBJECT TO A PRICE TEST BY THE COMMISSION TO ENSURE THAT THE PRICE OF AN INDIVIDUAL RETAIL SERVICE OR PACKAGE OF SERVICES DOES NOT FALL BELOW THE SUM OF THE WHOLESALE PRICES OF WHOLESALE ELEMENTS, AS DETERMINED BY THE COMMISSION, AND THE PRICES CHARGED FOR UNBUNDLED NETWORK ELEMENTS THAT CONSTITUTE SUCH RETAIL SERVICES OR PACKAGES OF RETAIL SERVICES. THE COMMISSION SHALL NOT ALLOW THE MINIMUM PRICE FOR A RETAIL SERVICE FOR END USERS TO BE SET LOWER THAN THE SUM OF THE WHOLESALE RATES THAT COMPETITIVE LOCAL EXCHANGE PROVIDERS PAY FOR THE UNBUNDLED NETWORK ELEMENTS AND THE WHOLESALE ELEMENTS, AS DETERMINED BY THE COMMISSION, THAT CONSTITUTE SUCH RETAIL SERVICES.

(6) AS USED IN THIS SECTION, "INCUMBENT LOCAL EXCHANGE PROVIDER" MEANS A TELECOMMUNICATIONS PROVIDER THAT IS AUTHORIZED BY THE COMMISSION TO PROVIDE LOCAL EXCHANGE SERVICE AND THAT WAS SO AUTHORIZED BEFORE FEBRUARY 8, 1996.

**SECTION Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill D

Colorado Legislative Council Staff

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 00-0254  
**Prime Sponsor(s):** Rep. Young

**Date:** December 7, 1999  
**Bill Status:** Telecom Interim Committee  
**Fiscal Analyst:** Will Meyer (303-866-4976)

**TITLE:** CONCERNING THE CONTINUING JURISDICTION OF THE PUBLIC UTILITIES COMMISSION OVER TELECOMMUNICATIONS SERVICES THAT ARE NOT SUBJECT TO TRADITIONAL FORMS OF ECONOMIC REGULATION.

<b>Fiscal Impact Summary</b>	<b>FY 2000/2001</b>	<b>FY 2001/2002</b>
<b>State Revenues</b> Cash Fund	\$82,162	\$74,850
<b>State Expenditures</b> Cash Fund	\$71,758	\$64,446
<b>FTE Position Change</b>	1.0 FTE	1.0 FTE
<b>Other State Impact:</b> TABOR impact		
<b>Effective Date:</b> Upon signature of the Governor		
<b>Appropriation Summary for FY 2000-01:</b> Department of Regulatory Agencies: Fixed Utilities Cash Fund appropriation of \$71,758 and 1.0 FTE		
<b>Local Government Impact:</b> None		

**Summary of Legislation**

The bill would make changes to the regulation of telecommunications providers by the Public Utilities Commission (PUC), Department of Regulatory Agencies. The bill would, in:

- Section 1, authorize the PUC to adopt standards governing the provision of provider-to-provider wholesale, interconnection, transportation, and termination agreements; designates the PUC as referee of such disputes; directs the PUC to set wholesale prices at or above cost and to set retail prices at or above such wholesale prices; allows geographic deaveraging of retail rates in conjunction with deaveraging of corresponding wholesale rates and rates charged for unbundled network elements, and creates an

expedited complaint procedure and enforcement mechanism for the handling of complaints concerning interconnection and related pricing;

- Section 2, direct the PUC to adopt rules setting forth minimum service quality standards applicable to all providers of retail telecommunications service; authorizes the PUC to approve specific plans for improvement and to impose penalties on providers who fail to comply; and
- Section 3, create a new lessened regulatory scheme for certain specific services currently regulated by the PUC, requiring only that they be subject to general supervision by the PUC concerning complaints, acts of fraud, general tariff requirements and wholesale pricing and antitrust-type issues; and specifically precluding PUC jurisdiction over retail pricing of such services upon a finding by the PUC there is effective competition that will promote the provision of adequate and reliable service at competitive rates.

### **State Revenues**

The bill would authorize the PUC to assess a fine of not less than \$100 nor more than \$50,000 per day for violation of provider-to-provider provisions, but only if the provider has failed to or refused to remedy a violation within a specified period of time or fails or refuses to abide by or meet the goals of an approved plan of improvement. The bill also would authorize the PUC to adopt standards related to service quality and to impose penalties in the form of cash payments, bill credits, or targeted investment. The total annual penalties imposed on any individual provider would be limited, not to exceed two percent of the provider's gross intrastate telecommunications revenue.

This enforcement process replaces the current statutory process that requires the PUC to take telecommunications providers that violate any of the above PUC regulations to district court to impose fines.

The PUC assumes that this change would provide an incentive for telecommunications providers to comply with PUC regulations, and would not result in any significant increase in revenues to the General Fund. Any changes on the amount of fine revenues and their disposition would be conditional on future violations by telecommunications providers and resultant actions of the PUC and is not estimated at this time.

The PUC will increase the assessment against regulated utilities to cover the costs to implement the provisions of the bill. It is estimated that assessments will increase cash fund revenues by \$82,162 in FY 2000-01 and \$74,850 in FY 2001-02.

### **State Expenditures**

The expedited complaint process will generate a volume of new complaints for the PUC, which together with the constrained time period under which they must be heard, will require an additional 1.0 FTE Administrative Law Judge I (ALJ) to hear the cases. It is assumed that the PUC staff will either not be a

party in the hearings or can participate as a party utilizing existing staff and legal services. It is estimated that this additional ALJ will cost \$71,758 and 1.0 FTE in FY 2000-01 and \$64,446 and 1.0 FTE in FY 2001-02.

### **Expenditures Not Included**

Pursuant to the Joint Budget Committee's budget policies, the following expenditures have not been included in this fiscal note:

- health and life insurance costs of \$2,211;
- short-term disability costs of \$120; and
- indirect costs of \$8,073.

### **State Appropriations**

For FY 2000-01, this fiscal note implies that the Department of Regulatory Agencies would require an additional cash fund appropriation out of Fixed Utilities Cash Fund for the Public Utilities Commission of \$71,758 and 1.0 FTE.

### **Departments Contacted**

Regulatory Agencies

**Bill E**

BY REPRESENTATIVE McKay

**A BILL FOR AN ACT**

CONCERNING A PROHIBITION ON IMPLICIT SUBSIDIES FOR TELECOMMUNICATIONS SERVICES, AND, IN CONNECTION THEREWITH, REQUIRING THAT EXPLICIT SUBSIDIES BE LIMITED AND REQUIRING THE PUBLIC UTILITIES COMMISSION TO SUPERVISE A REDUCTION IN INTRASTATE SWITCHED ACCESS RATES.

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**Bill Summary**

**"Eliminate Implicit Subsidies"**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Interim Committee on Telecommunications Issues. Directs the public utilities commission (PUC) to require the elimination of implicit subsidies from wholesale rates regulated by the PUC. Allows the PUC to grant waivers of requirements for small carriers for up to 24 months. Requires that such implicit subsidies be made explicit, consistent with federal law, and recovered to the extent allowed by the PUC, through the existing universal service support mechanism. Directs the PUC to ensure that the creation of any new explicit subsidies or surcharges is limited.

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

**SECTION** Part 5 of article 15 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**40-15-503.2. Implicit subsidies - limitations.** (1) CONSISTENT WITH FEDERAL LAW, THE COMMISSION SHALL, ON OR BEFORE DECEMBER 1, 2000, ISSUE ORDERS TO REQUIRE REMOVAL ON OR BEFORE DECEMBER 1, 2002, OF ALL IMPLICIT SUBSIDIES FROM WHOLESALE PROVIDER-TO-PROVIDER TELECOMMUNICATIONS RATES REGULATED BY THE COMMISSION, INCLUDING, WITHOUT LIMITATION, RATES FOR SWITCHED ACCESS.

(2) UPON A SHOWING OF GOOD CAUSE, THE COMMISSION MAY GRANT TO A SMALL LOCAL EXCHANGE PROVIDER A WAIVER OF THE REQUIREMENTS OF THIS SECTION FOR A TIME PERIOD NOT TO EXCEED TWENTY-FOUR MONTHS.

(3) IN ORDER TO FOSTER AND PROVIDE FOR UNIVERSAL SERVICE, ANY EXISTING IMPLICIT SUBSIDIES SHALL, AT THE TIME OF THEIR REMOVAL FROM WHOLESALE PROVIDER-TO-PROVIDER RATES IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, BE MADE EXPLICIT, CONSISTENT WITH FEDERAL LAW, AND RECOVERED TO THE EXTENT DETERMINED APPROPRIATE BY THE COMMISSION THROUGH THE UNIVERSAL SERVICE SUPPORT MECHANISM ON A COMPETITIVELY AND TECHNOLOGICALLY NEUTRAL BASIS. THE COMMISSION SHALL ENSURE THAT AMOUNTS DISTRIBUTED FROM THE COLORADO UNIVERSAL SERVICE SUPPORT MECHANISM ARE SPECIFICALLY AND APPROPRIATELY TARGETED TO RURAL HIGH COST AREAS AND THAT THE GROWTH AND SIZE OF THE FUND IS LIMITED.

(4) THE COMMISSION SHALL ENSURE THAT THE CREATION OF ANY NEW EXPLICIT SUBSIDIES OR SURCHARGES IS LIMITED.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO IMPAIR OR DIMINISH THE PUBLIC INTEREST GOAL SPECIFIED IN SECTION 40-15-502 (3) (b) (I) OF MAINTAINING AFFORDABLE AND JUST AND REASONABLY PRICED BASIC LOCAL TELECOMMUNICATIONS SERVICE FOR ALL CITIZENS OF THE STATE.

**SECTION Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill E

Colorado Legislative Council Staff  
STATE AND LOCAL  
CONDITIONAL FISCAL IMPACT

Drafting Number: LLS 00-0256  
Prime Sponsor(s): Rep. McKay

Date: December 7, 1999  
Bill Status: Telecom Interim Committee  
Fiscal Analyst: Will Meyer (303-866-4976)

TITLE: CONCERNING A PROHIBITION ON IMPLICIT SUBSIDIES FOR TELECOMMUNICATIONS SERVICES, AND, IN CONNECTION THEREWITH, REQUIRING THAT EXPLICIT SUBSIDIES BE LIMITED AND REQUIRING THE PUBLIC UTILITIES COMMISSION TO SUPERVISE A REDUCTION IN INTRASTATE SWITCHED ACCESS RATES.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002	FY 2002/2003
State Revenues General Fund			
State Expenditures All Funds			\$144,482
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE
Other State Impact: None			
Effective Date: Upon signature of the Governor.			
Appropriation Summary for FY 2000-2001: None			
Local Government Impact: Potential increase in the total cost of telecommunications services			

Summary of Legislation

This bill would direct the Public Utilities Commission (PUC) to eliminate, by December 1, 2002, all implicit subsidies from wholesale provider-to-provider telecommunications rates regulated by the PUC, including rates for switched access. The bill would allow the PUC to grant small local exchange providers a waiver to such requirements for up to 24 months. The bill would require the PUC to make any existing implicit subsidy explicit. It would allow such explicit subsidies to be recovered, to the extent appropriate, through the universal service support mechanism. The bill would require the PUC to ensure that the creation of any new explicit subsidies or surcharges be limited.



## **Background**

The universal service support mechanism, through a surcharge on all telephone access lines, is used to fund the high cost fund. The purpose of the high cost fund is to provide financial assistance to local exchange providers to help make basic local exchange service affordable to customers within a rural, high cost geographic support area.

In 1998, the General Assembly enacted SB 98-177 making the PUC responsible for the administration of the high cost fund, taking the revenues and expenditures off budget, and allowing high cost fund transactions to occur directly between providers without fiscal impact to the state. Currently, the PUC assesses a surcharge of 3.1% on approximately 2.5 million access lines, generating approximately \$60 million per year in revenues to the fund.

## **State Expenditures**

The PUC would need to conduct hearings to determine what implicit subsidies should be made explicit and the extent to which they should be recovered through the universal service support mechanism. To the extent that the PUC determines that there is explicit subsidies that appropriately should be recovered through the high cost mechanism, the cost of telephone service statewide, including state and local government costs, would increase. The amount of the statewide increase in telephone costs is estimated to be up to a maximum of \$60.0 million per year, requiring a surcharge rate of 6.2%. The cost of hearings, as well as the cost to make and administer any necessary changes, would be absorbed within the PUC's existing workload. There would not be any fiscal impact to the PUC.

The Department of Personnel provides telecommunications services to a number of state agencies. Based on their data and the best guess of the amount of services other state agencies contract for directly, except for the Department of Higher Education, it is estimated that the state currently pays \$247,684 a year in universal support surcharges. It is estimated that for each 1% increase in the amount of the surcharge would result in an increased cost of telecommunications services to the state of \$77,401. Based on current costs, it is estimated that this bill could cost the state up to \$247,684 a year beginning in FY 2002-03. The cost is estimated to be up-to \$144,482 (prorated for the December 1, 2002 effective date) for FY 2002-03, and up-to \$247,684 in FY 2003-04. The actual cost of the bill is not known and is conditional on future actions of the PUC.

## **Local Government Impact**

Any increase in the amount of the high cost fund surcharge would result in an increase in the cost of telephone service to local governments.

**State Appropriations**

Beginning in FY 2002-03, the Department of Personnel should be appropriated additional moneys to implement the provisions of this bill.

**Departments Contacted**

Regulatory Agencies Personnel Revenue

**Bill F**

BY SENATOR Phillips

A BILL FOR AN ACT

CONCERNING THE CREATION OF THE STATE TELECOMMUNICATIONS AND TECHNOLOGIES COUNCIL.

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**Bill Summary**

**"Telecom & Technologies Council"**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Interim Committee on Telecommunications Issues. Creates the state telecommunications and technologies council. Specifies that members shall be appointed by the governor with the consent of the senate and sets qualification standards for members. Requires the council to establish goals and plans to meet the economic and developmental telecommunication needs of the state in consultation with public institutions, industry, and the affected public. Establishes that the council's duties are to:

- Analyze and identify the state's situation with respect to telecommunications technologies;
  - Develop a plan to maximize federal funding, minimize state expenditures, and create development incentives; and
  - Report annually to the governor and the legislature.
- Makes conforming amendments.
- 

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

**SECTION** Part 5 of article 15 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**40-15-511. State telecommunications and technologies council - creation - composition - support.** (1) (a) THE STATE TELECOMMUNICATIONS AND TECHNOLOGIES COUNCIL IS HEREBY CREATED. THE COUNCIL SHALL CONSIST OF NINE MEMBERS APPOINTED BY THE GOVERNOR FROM THE PUBLIC AT LARGE AND APPROVED BY THE SENATE.

(b) THE QUALIFICATIONS OF COUNCIL MEMBERS SHALL INCLUDE:

(I) A DEMONSTRATED INTEREST AND INVOLVEMENT WITH TELECOMMUNICATIONS ISSUES THROUGH PARTICIPATION IN BUSINESS, TECHNOLOGY APPLICATIONS, PUBLIC AND POSTSECONDARY EDUCATION, HEALTH CARE, LIBRARIES, OR OTHER ENTITIES INVOLVED IN THE DISSEMINATION OR RECEIPT OF INFORMATION; AND

(II) AN UNDERSTANDING AND APPRECIATION OF THE DIVERSE NEEDS OF TELECOMMUNICATIONS USERS AND ECONOMIC DEVELOPMENT THROUGHOUT COLORADO.

(2) (a) MEMBERS SHALL BE APPOINTED FOR TERMS OF FOUR YEARS. INITIAL TERMS SHALL BE STAGGERED SO THAT THREE OF THE INITIAL MEMBERS SHALL SERVE TERMS OF TWO YEARS, ANOTHER THREE SERVE TERMS OF THREE YEARS, AND THE REMAINING THREE INITIAL MEMBERS SERVE TERMS OF FOUR YEARS.

(b) NO MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS ON THE COUNCIL. ANY PERSON APPOINTED TO FILL A VACANCY ON THE COUNCIL, AND WHO SERVES AT LEAST TWO YEARS, SHALL BE CONSIDERED TO HAVE SERVED A TERM IN THAT OFFICE FOR PURPOSES OF THIS PARAGRAPH (b). TERMS ARE CONSIDERED CONSECUTIVE UNLESS THEY ARE AT LEAST FOUR YEARS APART.

(c) COUNCIL MEMBERS SHALL ELECT A CHAIR FROM AMONG THE COUNCIL MEMBERSHIP.

(d) ANY VACANCY IN A COUNCIL MEMBERSHIP SHALL BE FILLED BY THE GOVERNOR WITH THE APPROVAL OF THE SENATE.

(e) THE TERM OF ANY MEMBER OF THE COUNCIL WHO MISSES MORE THAN TWO CONSECUTIVE REGULAR COUNCIL MEETINGS WITHOUT GOOD CAUSE SHALL BE TERMINATED AND HIS OR HER SUCCESSOR APPOINTED IN THE MANNER PROVIDED FOR APPOINTMENTS UNDER THIS SECTION.

(3) THE COUNCIL SHALL MEET AT LEAST QUARTERLY EACH YEAR.

(4) MEMBERS SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE DISCHARGE OF THEIR OFFICIAL DUTIES, INCLUDING A PER DIEM ALLOWANCE EQUAL TO THAT PROVIDED FOR THE STATE BOARD OF EQUALIZATION IN SECTION 39-9-101 (2), C.R.S., AND MILEAGE AS PROVIDED IN SECTION 24-9-104 (2), C.R.S. HOWEVER, SUCH TOTAL PER DIEM AND MILEAGE COMPENSATION SHALL NOT EXCEED THE AMOUNT APPROPRIATED BY LAW EACH YEAR FOR SUCH USES. MEMBERS SHALL RECEIVE NO OTHER COMPENSATION, PERQUISITE, OR ALLOWANCE FOR PERFORMING THE DUTIES OF THE COUNCIL.

(5) (a) THE OFFICE OF ECONOMIC DEVELOPMENT SHALL PROVIDE SUCH ADMINISTRATIVE ASSISTANCE, MEETING SPACE, AND OTHER NECESSARY FACILITIES AND SUPPORT SERVICES AS THE COUNCIL MAY REQUEST. THE OFFICE OF ECONOMIC DEVELOPMENT IS HEREBY AUTHORIZED, WITH THE COUNCIL'S APPROVAL, TO DRAW UPON THE FUNDS APPROPRIATED FOR THE OPERATIONS OF THE COUNCIL, AS REQUIRED, TO PAY FOR SERVICES REQUESTED BY THE COUNCIL, WHICH MAY INCLUDE, WITHOUT LIMITATION:

(I) POSTAGE AND PRINTING;

(II) ARRANGING FOR, COORDINATING, AND KEEPING RECORDS OF MEETINGS; AND

(III) PREPARATION AND DISTRIBUTION OF STUDIES OR REPORTS.

(b) IN ADDITION, THE COUNCIL MAY REQUEST SUPPLEMENTARY SUPPORT SERVICES FROM THE OFFICE OF INNOVATION AND TECHNOLOGY OF THE TYPE AND KIND AUTHORIZED IN PARAGRAPH (a) OF THIS SUBSECTION (5). THE OFFICE OF ECONOMIC DEVELOPMENT SHALL REIMBURSE THE OFFICE OF INNOVATION AND TECHNOLOGY FOR ACTUAL AND NECESSARY EXPENSES INCURRED WHILE PROVIDING SUCH SERVICES TO THE COUNCIL.

(c) EITHER THE OFFICE OF ECONOMIC DEVELOPMENT OR THE OFFICE OF INNOVATION AND TECHNOLOGY, WITH THE COUNCIL'S APPROVAL, MAY CONTRACT WITH PRIVATE PARTIES FOR THE PROVISION OF ANY SERVICES REQUIRED BY THE COUNCIL AND MAY TAKE SUCH OTHER ACTIONS AS THE COUNCIL MAY DEEM NECESSARY TO FULFILL ITS RESPONSIBILITIES UNDER THIS SECTION.

**40-15-512. Duties of council.** (1) THE STATE TELECOMMUNICATIONS AND TECHNOLOGIES COUNCIL, CREATED IN SECTION 40-15-511, SHALL DEVELOP GOALS AND PLANS, BOTH LONG-RANGE AND SHORT-RANGE, TO MEET THE ECONOMIC AND DEVELOPMENTAL TELECOMMUNICATION NEEDS OF THE STATE AND ITS CITIZENS, IN CONSULTATION WITH THE FOLLOWING:

- (a) THE AFFECTED PUBLIC;
- (b) APPROPRIATE STATE AGENCIES;
- (c) EDUCATIONAL ENTITIES;
- (d) PRIVATE INDUSTRY; AND
- (e) OTHER PERSONS OR ENTITIES THAT THE COUNCIL DEEMS APPROPRIATE.

(2) THE GOALS AND PLANS OF THE COUNCIL SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, BASIC ACCESS FOR ALL CONSUMERS TO ADVANCED TELECOMMUNICATIONS AND INFORMATION SERVICES, AND USE OF TELECOMMUNICATIONS TO FURTHER ECONOMIC DEVELOPMENT IN ALL AREAS OF THE STATE.

(3) THE COUNCIL SHALL:

- (a) STUDY THE STATUS OF BASIC AND ADVANCED TELECOMMUNICATIONS SERVICES;
- (b) IDENTIFY THE MAJOR TYPES OF TELECOMMUNICATIONS INFRASTRUCTURE IN DIFFERENT GEOGRAPHIC AREAS OF THE STATE, BOTH PUBLIC AND PRIVATE;

(c) IDENTIFY ANY INCENTIVES NEEDED TO ENCOURAGE INVESTMENT IN TELECOMMUNICATIONS INFRASTRUCTURE IN URBAN AND RURAL AREAS;

(d) DEVELOP A STATE PLAN TO MAXIMIZE FEDERAL GRANTS AND FUNDING FOR TELECOMMUNICATIONS INFRASTRUCTURE AVAILABLE TO CITIZENS, INDUSTRY, SCHOOLS, HEALTH CARE, AND LIBRARIES;

(e) DETERMINE HOW BEST TO MINIMIZE STATE AND LOCAL GOVERNMENT EXPENDITURES BY FOSTERING AND ENCOURAGING PRIVATE OWNERSHIP OF INFRASTRUCTURE;

(f) ANALYZE HOW STATE-OWNED TELECOMMUNICATIONS FACILITIES CAN BE USED MORE EFFICIENTLY TO SUPPORT THE PROVISION OF ADVANCED TELECOMMUNICATIONS SERVICE BY PRIVATE INDUSTRY;

(g) ANALYZE THE FEASIBILITY AND EFFICACY OF ANY NATIONAL OR STATE PROJECTS THAT HAVE BEEN SUCCESSFUL IN INCREASING THE AVAILABILITY OF TELECOMMUNICATIONS AND INFORMATION SERVICES IN RURAL AREAS; AND

(h) REPORT ANNUALLY TO THE GOVERNOR AND THE LEGISLATURE WITH PLANS AND RECOMMENDATIONS TO MEET THE GOALS OF SECTION 40-15-512.

**SECTION Effective date.** This act shall take effect July 1, 2000.

**SECTION Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill F

Colorado Legislative Council Staff

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 00-0365  
**Prime Sponsor(s):** Sen. Phillips

**Date:** December 7, 1999  
**Bill Status:** Telecom Interim Committee  
**Fiscal Analyst:** Will Meyer (303-866-4976)

**TITLE:** CONCERNING THE CREATION OF THE STATE TELECOMMUNICATIONS AND TECHNOLOGIES COUNCIL.

<b>Fiscal Impact Summary</b>	<b>FY 2000/2001</b>	<b>FY 2001/2002</b>
<b>State Revenues</b> General Fund		
<b>State Expenditures</b> General Fund - Transfer	\$14,746	\$14,746
Cash Fund Exempt	\$14,746	\$14,746
<b>FTE Position Change</b>	0.3 FTE	0.3 FTE
<b>Other State Impact:</b> None		
<b>Effective Date:</b> July 1, 2000		
<b>Appropriation Summary for FY 2000-2001:</b> Department of Local Affairs: \$14,746 General Fund and 0.3 FTE for transfer to the Governor's Office of Economic Development; Governor's Office of Economic Development: \$14,746 Cash Fund Exempt and 0.3 FTE		
<b>Local Government Impact:</b> None		

**Summary of Legislation**

This bill would create a nine-member State Telecommunications and Technologies Council, authorized to develop goals and plans to meet the economic and developmental telecommunications needs of the state and its citizens. The bill would require the Governor's Office of Economic Development (OED) to provide administrative assistance, meeting space, and other necessary facilities and support. It also would authorize the council to request supplementary support services from the Governor's Office of Innovation and Technology (OIT). The bill would allow either the OED or OIT to contract with private parties for the provision of any services required by the council.

## **State Expenditures**

In FY 2000-01, the Governor's Office of Economic Development would require an additional .3 FTE and \$14,746 CFE to implement the provisions of the bill. The Department of Local Affairs funds activities of the OED through its General Fund appropriation.

The bill requires the council to meet at least four times a year. It is assumed that the council will meet at least four times a year and that council members will receive a per diem of \$50 per day plus \$60 per day for actual and necessary expenses. Per diem and reimbursement of actual and necessary expenses would total \$3,960 a year (9 members times \$110 per day times 4 meetings per year = \$3,960) beginning in FY 2000-01.

In addition, the OED would require 0.3 FTE to support the council and its activities at a cost of \$10,786 a year (including PERA and Medicare) beginning in FY 2000-01.

## **Expenditures Not Included**

Pursuant to the Joint Budget Committee's budget policies, the following expenditures totaling \$683 have not been included in this fiscal note:

- health and life insurance costs of \$663;
- short-term disability costs of \$20;
- inflationary cost factors;
- leased space; and
- indirect costs.

## **State Appropriations**

For FY 2000-01, this fiscal note implies that the Department of Local Affairs should be appropriated \$14,746 General Fund for transfer to the Governor's Office of Economic Development, to implement the provisions of this bill. The Governor's Office of Economic Development should receive \$14,746 CFE and 0.3 FTE.

## **Departments Contacted**

Governor