

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 14-1004.01 Jennifer Berman x3286

HOUSE BILL 14-1331

HOUSE SPONSORSHIP

Williams and Murray,

SENATE SPONSORSHIP

Nicholson and Kerr,

House Committees

Business, Labor, Economic, & Workforce Development
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF BASIC LOCAL EXCHANGE SERVICE**
102 **AS IT AFFECTS EFFECTIVE COMPETITION, AND, IN CONNECTION**
103 **THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill defines terms. **Section 2** deregulates basic local exchange service and other related services.

Section 3 repeals language related to private telecommunications network service.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
April 9, 2014

HOUSE
Amended 2nd Reading
April 8, 2014

Sections 4 and 7 repeal requirements concerning the discontinuation or rearrangement of basic local exchange service.

Section 8 repeals language concerning the regulation of IntraLATA interexchange telecommunications services.

Sections 5 and 9 clarify that basic local exchange service providers may be reimbursed from the high cost support mechanism regardless of whether basic local exchange service is regulated.

Section 9 also provides that an incumbent local exchange carrier remains subject to any obligations as provider of last resort and must charge a uniform price for basic service throughout its service territory. For basic local exchange providers that accept high cost support mechanism distributions, the commission retains the authority to designate providers of last resort, determine a maximum price for basic service, prohibit the discontinuance of basic service, and impose fees related to the high cost support mechanism, emergency service, and telecommunications relay service.

Section 10 changes a reference from "local exchange service" to "telecommunications services".

Section 11 limits the use of support mechanisms created by the commission for the provision of services in high-cost areas without effective competition.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-15-102, **amend**
3 (3) and (29); and **add** (9.5) as follows:

4 **40-15-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (3) "Basic local exchange service" or "basic service" means the
7 telecommunications service ~~which~~ THAT provides:

8 (a) A local dial tone; ~~line~~ and

9 (b) Local usage necessary to place or receive a call within an
10 exchange area. ~~and any other services or features that may be added by~~
11 ~~the commission under section 40-15-502 (2).~~

12 (9.5) "INCUMBENT LOCAL EXCHANGE CARRIER" OR "ILEC" HAS
13 THE MEANING SET FORTH IN 47 U.S.C. SEC. 251 (h).

1 (29) "Telecommunications service" ~~means the electronic or~~
2 ~~optical transmission of information between separate points by~~
3 ~~prearranged means~~ AND "TELECOMMUNICATIONS" HAVE THE SAME
4 MEANING AS SET FORTH IN 47 U.S.C. SEC. 153.

5 **SECTION 2.** In Colorado Revised Statutes, **amend** 40-15-201 as
6 follows:

7 **40-15-201. Regulation by commission.** (1) For purposes of this
8 part 2, except as otherwise provided in this title, each provider of basic
9 local exchange service is declared to be affected with a public interest and
10 a public utility subject to the provisions of articles 1 to 7 of this title, so
11 far as applicable, including the regulation of all rates and charges
12 pertaining to local exchange companies; except that, if a provider applies
13 for and receives commission approval of an alternative form of
14 regulation, or if a provider is a rural telecommunications provider subject
15 to simplified regulatory treatment under section 40-15-203.5 or 40-15-503
16 (2) (d), the commission shall not consider the provider's overall rate of
17 return or overall revenue requirements when determining the just and
18 reasonable rate for a particular product or service. ~~For a rural~~
19 ~~telecommunications provider subject to simplified regulatory treatment~~
20 ~~under section 40-15-203.5 or 40-15-503 (2) (d), basic local exchange~~
21 ~~service shall be regulated as provided in subsection (2) of this section.~~
22 The commission may promulgate ~~such~~ rules as ~~are~~ necessary ~~for the~~
23 ~~purpose of implementing the provisions of~~ TO IMPLEMENT this part 2.

24 (2) ~~The following products, services, and providers are~~ BASIC
25 EMERGENCY SERVICE IS declared to be subject to regulation ~~pursuant to~~
26 UNDER this part 2 and subject to potential reclassification under section
27 40-15-207.

- 1 ~~(a) Basic local exchange service;~~
- 2 ~~(b) Basic emergency service;~~
- 3 ~~(c) (Deleted by amendment, L. 99, p. 185, § 3, effective March 31,~~
- 4 ~~1999.)~~
- 5 ~~(d) White page directory listing;~~
- 6 ~~(e) Local exchange listed telephone number service;~~
- 7 ~~(f) New products and services included in the definition of basic~~
- 8 ~~local exchange service;~~
- 9 ~~(g) Dual tone multifrequency signaling;~~
- 10 ~~(h) Operator services necessary for the provision of basic local~~
- 11 ~~exchange service.~~

12 **SECTION 3.** In Colorado Revised Statutes, 40-15-203, **repeal**
13 ~~(2), (3), (4), and (5) as follows:~~

14 **40-15-203. Manner of regulation - refraining from regulation.**

15 ~~(2) In accordance with the provisions of this part 2, upon its own motion~~
16 ~~or application of a local exchange provider, the commission may refrain~~
17 ~~from regulation for competitive purposes, and authorize a local exchange~~
18 ~~provider to provide all or a portion of a private telecommunications~~
19 ~~network service under stated or negotiated terms to any person or entity~~
20 ~~that has acquired, is contemplating the acquisition of, or is operating a~~
21 ~~private telecommunications network.~~

22 ~~(3) (a) At any time, the local exchange provider may file or the~~
23 ~~commission on its own motion may request that the provider file a~~
24 ~~verified application with the commission for refraining from regulation~~
25 ~~for competitive purposes. The application shall contain at least the~~
26 ~~following information:~~

- 27 ~~(I) The name and address of the local exchange provider;~~

1 ~~(H) The name and address of the person or entity that has~~
2 ~~acquired, is contemplating the acquisition of, or is operating a private~~
3 ~~telecommunications network;~~

4 ~~(HH) A statement of what products or services of the local~~
5 ~~exchange provider are offered or are being provided by such private~~
6 ~~telecommunications network;~~

7 ~~(IV) A statement that the local exchange provider intends to~~
8 ~~provide a competitive alternative proposal to its existing regulated tariffs~~
9 ~~for such person or entity;~~

10 ~~(V) A statement of what products and services of the local~~
11 ~~exchange provider will or may be subject to the competitive alternative.~~

12 ~~(b) For the purpose of evaluating said application, the commission~~
13 ~~may require such additional information as it deems proper for the~~
14 ~~processing of the application.~~

15 ~~(c) The local exchange provider's application for refraining from~~
16 ~~regulation for competitive purposes and all information contained therein~~
17 ~~shall remain confidential.~~

18 ~~(d) The commission shall approve or deny any such application~~
19 ~~for refraining from regulation for competitive purposes within ten days~~
20 ~~after the filing of the application; except that the commission may, by~~
21 ~~order, defer the period within which it must act for one additional period~~
22 ~~of five days. If the commission has not acted on any such application~~
23 ~~within the appropriate time period permitted, the application shall be~~
24 ~~deemed granted.~~

25 ~~(4) (a) Upon approval of an application for refraining from~~
26 ~~regulation for competitive purposes, the local exchange provider may~~
27 ~~thereafter negotiate with the person or entity that intends to acquire, is~~

1 ~~contemplating the acquisition of, or is operating a private~~
2 ~~telecommunications network without regard to its obligations as a public~~
3 ~~utility under articles 1 to 7 of this title, including any tariffs of such~~
4 ~~company on file and approved by the commission.~~

5 ~~(b) Within ten days after the conclusion of such negotiations~~
6 ~~between the local exchange provider and the entity which intends to~~
7 ~~acquire, is contemplating the acquisition of, or is operating a private~~
8 ~~telecommunications network, such provider shall file with the~~
9 ~~commission the final contract or other evidence of what basic local~~
10 ~~exchange service will be provided to such person or entity and what will~~
11 ~~be the charges and costs for such service. The final contracts or other~~
12 ~~evidence and all information contained therein shall remain confidential.~~
13 ~~Thereafter, for any basic local exchange service actually furnished~~
14 ~~through a private telecommunications network to a person or entity that~~
15 ~~is a party to a contract or other arrangement that has been filed with the~~
16 ~~commission pursuant to this section, such provider may also furnish or~~
17 ~~offer to furnish similar basic local exchange service to such person or~~
18 ~~entity operating such private telecommunications network without regard~~
19 ~~to its obligations as a public utility under articles 1 to 7 of this title,~~
20 ~~including any tariffs of such provider on file and approved by the~~
21 ~~commission. The commission shall not have the power to approve or~~
22 ~~disapprove services provided or the charges therefor, but this limitation~~
23 ~~shall not prevent the commission from considering and evaluating the~~
24 ~~same, and the costs associated therewith, for general regulatory purposes.~~

25 ~~(5) The provisions of articles 3 and 6 of this title shall not apply~~
26 ~~to proceedings related to an application for refraining from regulation for~~
27 ~~competitive purposes submitted pursuant to subsection (2) of this section.~~

1 **SECTION 4.** In Colorado Revised Statutes, **repeal** 40-15-206.

2 **SECTION 5.** In Colorado Revised Statutes, 40-15-208, **amend**

3 (2) (a) (I) as follows:

4 **40-15-208. High cost support mechanism - Colorado high cost**
5 **administration fund - creation - purpose - operation - rules.**

6 (2) (a) (I) The commission is hereby authorized to establish a mechanism
7 for the support of universal service, also referred to in this section as the
8 "high cost support mechanism", which ~~shall~~ MUST operate in accordance
9 with rules adopted by the commission. The primary purpose of the high
10 cost support mechanism is to provide financial assistance as a support
11 mechanism to local exchange providers IN AREAS WITHOUT EFFECTIVE
12 COMPETITION to help make basic local exchange service affordable and
13 allow ~~such~~ THE providers to be fully reimbursed for the difference
14 between the reasonable costs incurred in making basic service available
15 to their customers within a rural, high cost geographic support area and
16 ~~the price charged for such service~~ A REASONABLE BENCHMARK RATE FOR
17 BASIC SERVICE, AS DETERMINED BY THE COMMISSION, after taking into
18 account any amounts received ~~by such providers~~ under price support
19 mechanisms established by the federal government and by this state,
20 REGARDLESS OF THE CLASSIFICATION OF BASIC SERVICE UNDER PART 2, 3,
21 OR 4 OF THIS ARTICLE.

22 **SECTION 6.** In Colorado Revised Statutes, 40-15-301, **amend**

23 (2) as follows:

24 **40-15-301. Regulation by the commission.** (2) ~~The following~~
25 ~~telecommunications products, services, and providers are~~ SWITCHED
26 ACCESS IS declared to be initially subject to regulation ~~pursuant to~~ UNDER
27 this part 3, SUBJECT TO SECTION 40-15-307. ~~and subject to potential~~

1 deregulation under section 40-15-305:

2 (a) ~~Advanced features offered and provided to residential~~
3 ~~customers and nonresidential customers with no more than five lines;~~

4 (b) ~~Premium services except as provided in section 40-15-401 (1)~~
5 ~~(f), (1) (g), (1) (h), and (1) (i);~~

6 (c) ~~InterLATA toll;~~

7 (d) ~~IntraLATA toll, subject to the provisions of section 40-15-306;~~

8 (e) ~~Switched access, subject to the provisions of section~~
9 ~~40-15-307;~~

10 (f) ~~Private line service with a capacity of less than twenty-four~~
11 ~~voice grade circuits;~~

12 (g) ~~Nonoptional operator services.~~

13 **SECTION 7.** In Colorado Revised Statutes, 40-15-302, **repeal** (3)
14 as follows:

15 **40-15-302. Manner of regulation - rules.** (3) ~~The provisions of~~
16 ~~section 40-15-206 pertaining to regulation of the discontinuation or~~
17 ~~rearrangement of basic local exchange service shall apply to all services~~
18 ~~and products regulated pursuant to this section.~~

19 **SECTION 8.** In Colorado Revised Statutes, **repeal** 40-15-306 as
20 follows:

21 **40-15-306. IntraLATA interexchange services.** ~~IntraLATA~~
22 ~~interexchange telecommunications services shall be regulated in~~
23 ~~accordance with the provisions of this part 3; except that such services~~
24 ~~shall not automatically be deregulated as part 4 services pursuant to~~
25 ~~section 40-15-305 except upon application of the provider of such~~
26 ~~services. No interexchange provider shall market intraLATA~~
27 ~~interexchange telecommunications services without obtaining prior~~

1 ~~approval of the commission. An interexchange provider shall not be~~
2 ~~required to compensate a local exchange provider for incidental~~
3 ~~telecommunications services that occur after July 2, 1987.~~

4 **SECTION 9.** In Colorado Revised Statutes, 40-15-401, **amend**
5 (1) (b) and (1) (c); and **add** (1) (q), (2), (3), (4), and (5) as follows:

6 **40-15-401. Services, products, and providers exempt from**
7 **regulation - definition.** (1) The following products, services, and
8 providers are exempt from regulation under this article or under the
9 "Public Utilities Law" of the state of Colorado:

10 (b) ~~Cellular telecommunications services~~ BASIC SERVICE; EXCEPT
11 THAT:

12 (I) THE HIGH COST SUPPORT MECHANISM, AS DESCRIBED IN
13 SECTIONS 40-15-208 AND 40-15-502, REMAINS EFFECTIVE TO SUPPORT
14 BASIC SERVICE REGARDLESS OF THE CLASSIFICATION OF BASIC SERVICE OR
15 VOICE-OVER-INTERNET PROTOCOL SERVICE IN THIS PART 4;

16 (II) (A) UNTIL JULY 1, 2016, EACH INCUMBENT LOCAL EXCHANGE
17 CARRIER SHALL CHARGE A UNIFORM PRICE FOR BASIC SERVICE
18 THROUGHOUT ITS SERVICE TERRITORY; EXCEPT THAT AN INCUMBENT
19 LOCAL EXCHANGE CARRIER SHALL NOT CHARGE A PRICE FOR BASIC
20 SERVICE THAT IS MORE THAN THE PRICE THAT THE CARRIER CHARGED ON
21 DECEMBER 31, 2013, UNLESS THE PRICE CHARGED IS LOWER THAN THE
22 URBAN RATE FLOOR PRESCRIBED BY THE FEDERAL COMMUNICATIONS
23 COMMISSION. IF A CARRIER CHARGES LESS THAN THE URBAN RATE FLOOR,
24 THE CARRIER MAY INCREASE THE PRICE TO EQUAL BUT NOT EXCEED THE
25 URBAN RATE FLOOR; EXCEPT THAT, IF THE COMMISSION ORDERS
26 REDUCTIONS IN INTERCARRIER COMPENSATION RATES, AN INCUMBENT
27 LOCAL EXCHANGE CARRIER MAY INCREASE LOCAL RATES TO RECOVER

1 SOME OR ALL OF THE LOST REVENUES ASSOCIATED WITH THE
2 COMMISSION'S ACTION.

3 (B) AS USED IN THIS SUBPARAGRAPH (II), "URBAN RATE FLOOR"
4 MEANS THE BASIC LOCAL EXCHANGE SERVICE RATE REQUIRED TO BE
5 CHARGED IN ORDER TO PREVENT A REDUCTION IN FEDERAL HIGH COST
6 SUPPORT.

7 (III) UNTIL JULY 1, 2016, EACH INCUMBENT LOCAL EXCHANGE
8 CARRIER REMAINS SUBJECT TO ANY OBLIGATIONS AS PROVIDER OF LAST
9 RESORT, AS ESTABLISHED BY THE COMMISSION UNDER SECTION 40-15-502
10 (6), THROUGHOUT ITS SERVICE TERRITORY;

11 (IV) ON AND AFTER JULY 1, 2016, THROUGHOUT EACH
12 GEOGRAPHIC AREA FOR WHICH THE COMMISSION PROVIDES HIGH COST
13 SUPPORT MECHANISM DISTRIBUTIONS FOR BASIC SERVICE UNDER SECTIONS
14 40-15-208 AND 40-15-502 (5), THE COMMISSION RETAINS THE AUTHORITY
15 TO:

16 (A) DESIGNATE PROVIDERS OF LAST RESORT UNDER SECTION
17 40-15-502 (6);

18 (B) DETERMINE A MAXIMUM PRICE FOR BASIC SERVICE UNDER
19 SECTION 40-15-502 (3) (b);

20 (C) PROHIBIT PROVIDERS FROM DISCONTINUING BASIC SERVICE,
21 NOTWITHSTANDING SECTION 40-15-111; AND

22 (D) AUDIT, INVESTIGATE, AND ENFORCE COMPLIANCE WITH
23 REGULATION PERMITTED IN SECTIONS 40-15-208, 40-15-401, AND
24 40-15-502 (5);

25 (V) PROVIDERS OF BASIC SERVICE REMAIN SUBJECT TO THE
26 FOLLOWING FEES AND SURCHARGES:

27 (A) HIGH COST SUPPORT MECHANISM ASSESSMENTS CALCULATED

1 UNDER SECTION 40-15-502 (5) (a);
2 (B) EMERGENCY SERVICE SURCHARGES ASSESSED UNDER PART 1
3 OF ARTICLE 11 OF TITLE 29, C.R.S., TO SUPPORT 911 SERVICE; AND
4 (C) TELECOMMUNICATIONS RELAY SERVICE CHARGES ASSESSED
5 UNDER ARTICLE 17 OF THIS TITLE; AND
6 (VI) IF, AFTER JULY 1, 2018, THE COMMISSION FINDS THAT
7 RE-REGULATION OF BASIC LOCAL EXCHANGE SERVICE IS NECESSARY TO
8 PROTECT THE PUBLIC INTEREST FOLLOWING A HEARING AND UPON
9 FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION MAY
10 REGULATE BASIC LOCAL EXCHANGE SERVICE UNDER PART 3 OF THIS
11 ARTICLE.
12 (c) ~~Mobile radio~~ INTEREXCHANGE TELECOMMUNICATIONS service;
13 (q) PRIVATE TELECOMMUNICATIONS NETWORKS.
14 (2) NOTHING IN THIS SECTION AFFECTS, MODIFIES, OR EXPANDS:
15 (a) AN ENTITY'S OBLIGATIONS UNDER SECTIONS 251 AND 252 OF
16 THE FEDERAL "COMMUNICATIONS ACT OF 1934", AS AMENDED, AND
17 CODIFIED IN 47 U.S.C. SECS. 251 AND 252;
18 (b) ANY COMMISSION AUTHORITY OVER WHOLESALE
19 TELECOMMUNICATIONS RATES, SERVICES, AGREEMENTS, PROVIDERS, OR
20 TARIFFS;
21 (c) ANY COMMISSION AUTHORITY ADDRESSING OR AFFECTING THE
22 RESOLUTION OF DISPUTES REGARDING INTERCARRIER COMPENSATION; OR
23 (d) THE REQUIREMENTS FOR THE RECEIPT OF STATE OR FEDERAL
24 FINANCIAL ASSISTANCE THROUGH A HIGH COST SUPPORT MECHANISM.
25 (3) IF A TELECOMMUNICATIONS SERVICE OR PRODUCT IS NOT
26 DEFINED IN PART 1 OF THIS ARTICLE AND IS NOT CLASSIFIED UNDER PART
27 2 OR 3 OF THIS ARTICLE, THE TELECOMMUNICATIONS SERVICE OR PRODUCT

1 IS CLASSIFIED AS A DEREGULATED TELECOMMUNICATIONS SERVICE UNDER
2 THIS PART 4.

3 (4) NOTHING IN THIS PART 4 SHALL BE CONSTRUED TO AFFECT,
4 MODIFY, LIMIT, OR EXPAND THE COMMISSION'S AUTHORITY TO REGULATE
5 BASIC EMERGENCY SERVICE.

6 (5) THIS SECTION DOES NOT AFFECT THE ESTABLISHMENT OR
7 ENFORCEMENT OF STANDARDS, REQUIREMENTS, PROCEDURES, OR
8 PROCUREMENT POLICIES APPLICABLE TO ANY DEPARTMENT, AGENCY,
9 COMMISSION, OR POLITICAL SUBDIVISION OF THE STATE, OR TO THE
10 EMPLOYEES, AGENTS, OR CONTRACTORS OF A DEPARTMENT, AGENCY,
11 COMMISSION, OR POLITICAL SUBDIVISION OF THE STATE, RELATING TO THE
12 PROTECTION OF INTELLECTUAL PROPERTY.

13 **SECTION 10.** In Colorado Revised Statutes, 40-15-501, **amend**

14 (3) (c) as follows:

15 **40-15-501. Legislative declaration - purpose and scope of part.**

16 (3) This part 5 is enacted for the following purposes:

17 (c) To adapt the regulatory structure of parts 2, 3, and 4 of this
18 article to accommodate multiple providers of ~~local exchange service~~
19 TELECOMMUNICATIONS SERVICES and to permit alternate forms of
20 regulation for providers of local exchange service.

21 **SECTION 11.** In Colorado Revised Statutes, 40-15-502, **amend**

22 (5) (a) as follows:

23 **40-15-502. Expressions of state policy. (5) Universal service**

24 **support mechanisms.** (a) In order to accomplish the goals of universal
25 basic service, universal access to advanced service, and any revision of
26 the definition of basic service under subsection (2) of this section, the
27 commission shall create a system of support mechanisms to assist in the

1 provision of ~~such services~~ BASIC SERVICE in high-cost areas THAT ARE
2 WITHOUT EFFECTIVE COMPETITION FOR BASIC SERVICE, APPLYING THE
3 FACTORS STATED IN SECTION 40-15-207; EXCEPT THAT SUPPORT PROVIDED
4 IN A PARTICULAR GEOGRAPHIC SUPPORT AREA IS NOT AFFECTED UNTIL THE
5 COMMISSION MAKES A FINDING APPLYING THE FACTORS LISTED IN SECTION
6 40-15-207. These support mechanisms shall be funded equitably and on
7 a nondiscriminatory, competitively neutral basis through assessments,
8 which may include a rate element, on all telecommunications service
9 providers in Colorado and shall be distributed equitably and on a
10 nondiscriminatory, competitively neutral basis. For purposes of
11 administering ~~such~~ THE support mechanisms, the commission shall divide
12 the state into reasonably compact, competitively neutral geographic
13 support areas. A provider's eligibility to receive support under the support
14 mechanisms shall be conditioned upon the provider's offering basic
15 service throughout an entire support area. The commission shall review
16 the costs of basic service and shall administer ~~such~~ THE support
17 mechanisms.

18 **SECTION 12. Appropriation.** (1) In addition to any other
19 appropriation, there is hereby appropriated, out of any moneys in the
20 public utilities commission fixed utility fund created in section 40-2-114,
21 Colorado Revised Statutes, not otherwise appropriated, to the department
22 of regulatory agencies, for the fiscal year beginning July 1, 2014, the sum
23 of \$270,335 and 2.0 FTE, or so much thereof as may be necessary, to be
24 allocated for the implementation of this act as follows:

25 (a) \$153,376 and 2.0 FTE to the public utilities commission for
26 personal services;

27 (b) \$11,306 to the public utilities commission for operating

1 expenses and capital outlay; and

2 (c) \$105,653 to the executive director's office and administrative
3 services for the purchase of legal services.

4 (2) In addition to any other appropriation, there is hereby
5 appropriated to the department of law, for the fiscal year beginning July
6 1, 2014, the sum of \$105,653 and 0.6 FTE, or so much thereof as may be
7 necessary, for the provision of legal services for the department of
8 regulatory agencies related to the implementation of this act. Said sum is
9 from reappropriated funds received from the department of regulatory
10 agencies out of the appropriation made in paragraph (c) of subsection (1)
11 of this section.

12 **SECTION 13. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.