

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0097.02 Duane Gall x4335

**SENATE BILL 12-157**

---

**SENATE SPONSORSHIP**

**Scheffel and Tochtrop,**

**HOUSE SPONSORSHIP**

**Williams A. and Murray,**

---

**Senate Committees**

Business, Labor and Technology  
Appropriations

**House Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING THE REGULATION OF TELECOMMUNICATIONS SERVICE,**  
102 **AND, IN CONNECTION THEREWITH, ENACTING THE**  
103 **"TELECOMMUNICATIONS MODERNIZATION ACT OF 2012".**

---

**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>.)*

In 1987, article 15 of title 40, Colorado Revised Statutes, governing intrastate telecommunications services, was repealed and reenacted. Since then, the statutes have been amended to accommodate technological changes and increased competition in many segments of the

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.*

communications industry but, for the most part, retain the regulatory structure that developed in an era of traditional voice-centric wireline service.

The bill makes substantial revisions to article 15 to reflect current conditions and in anticipation of future evolution of the market, including:

- ! Directing the Colorado public utilities commission to eliminate price controls for all retail services except basic local exchange service provided to residential customers and emergency service, and to periodically reexamine whether competition has advanced sufficiently in particular geographic areas so that price controls on these services may also be eliminated;
- ! Requiring local exchange carriers to adjust their rates for switched access service over a period of time until their intrastate rates match their interstate rates on file with the federal communications commission; and
- ! Beginning the process of reducing and eventually eliminating the state's high cost support mechanism (HCSM), which subsidized the construction of land lines and other infrastructure when those methods were the only methods available to bring telecommunications services to rural areas of the state. The bill directs part of the revenue freed up by reductions in the HCSM to a broadband capital investment fund administered by the office of information technology.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 40-15-100.1 as  
3 follows:

4 **40-15-100.1. Short title.** THIS ARTICLE SHALL BE KNOWN AND  
5 MAY BE CITED AS THE "TELECOMMUNICATIONS MODERNIZATION ACT OF  
6 2012".

7 **SECTION 2.** In Colorado Revised Statutes, **amend** 40-15-101  
8 as follows:

9 **40-15-101. Legislative declaration - purpose and scope of this**  
10 **article.** (1) ~~The general assembly hereby finds, determines, and declares~~

1 ~~that it is the policy of the state of Colorado to promote a competitive~~  
2 ~~telecommunications marketplace while protecting and maintaining the~~  
3 ~~wide availability of high-quality telecommunications services. Such goals~~  
4 ~~are best achieved by legislation that brings telecommunications regulation~~  
5 ~~into the modern era by guaranteeing the affordability of basic telephone~~  
6 ~~service while fostering free market competition within the~~  
7 ~~telecommunications industry. The general assembly further finds that the~~  
8 ~~technological advancements and increased customer choices for~~  
9 ~~telecommunications services generated by such market competition will~~  
10 ~~enhance Colorado's economic development and play a critical role in~~  
11 ~~Colorado's economic future. However, the general assembly recognizes~~  
12 ~~that the strength of competitive force varies widely between markets and~~  
13 ~~products and services. Therefore, to foster, encourage, and accelerate the~~  
14 ~~continuing emergence of a competitive telecommunications environment,~~  
15 ~~the general assembly declares that flexible regulatory treatments are~~  
16 ~~appropriate for different telecommunications services~~ THE GENERAL  
17 ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT IT IS THE  
18 POLICY OF THE STATE OF COLORADO TO PROMOTE A COMPETITIVE  
19 TELECOMMUNICATIONS MARKET AND THE WIDE AVAILABILITY OF  
20 HIGH-QUALITY TELECOMMUNICATIONS SERVICES. THIS ARTICLE ACHIEVES  
21 THESE GOALS BY:

- 22 (a) REMOVING BARRIERS TO COMPETITIVE ENTRY;
- 23 (b) PHASING OUT PRICE CAPS ON BASIC LOCAL EXCHANGE  
24 SERVICES IN COMPETITIVE MARKETS;
- 25 (c) LIMITING AND PHASING OUT THE COLORADO HIGH COST  
26 SUPPORT MECHANISM TO RURAL PROVIDERS; AND
- 27 (d) LIMITING REGULATION OVER TELECOMMUNICATIONS SERVICES

1 USING THE PUBLIC SWITCHED TELECOMMUNICATIONS NETWORK WHERE  
2 COMPETITIVE CHOICES DO NOT EXIST.

3 (2) TO FOSTER, ENCOURAGE, AND ACCELERATE THE CONTINUING  
4 EMERGENCE OF A COMPETITIVE TELECOMMUNICATIONS ENVIRONMENT,  
5 THE GENERAL ASSEMBLY DECLARES THAT IT IS APPROPRIATE TO ESTABLISH  
6 DIFFERENT METHODS OF REGULATION FOR, OR FULLY DEREGULATE,  
7 DIFFERENT TELECOMMUNICATIONS SERVICES.

8 **SECTION 3.** In Colorado Revised Statutes, **amend** 40-15-102 as  
9 follows:

10 **40-15-102. Definitions.** As used in this article, unless the context  
11 otherwise requires:

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

13 ~~(2)~~(1) "Advanced features" means custom calling features known  
14 as speed dialing, 3-way calling, call forwarding, and call waiting.

15 (2) "ADVANCED SERVICES" HAS THE SAME MEANING AS SET FORTH  
16 IN 47 CFR 51.5.

17 (3) "Basic local exchange service" or "basic service" means the  
18 telecommunications service ~~which~~ THAT provides a local dial tone ~~line~~  
19 and local usage necessary to place or receive a call within an exchange  
20 area, ~~and any other services or features that may be added by the~~  
21 ~~commission under section 40-15-502 (2)~~ TOGETHER WITH ACCESS TO  
22 EMERGENCY, OPERATOR SERVICES, AND INTEREXCHANGE  
23 TELECOMMUNICATIONS SERVICES.

24 ~~(4) "Centron and centron-like services" means services which~~  
25 ~~provide custom switching features which include but are not limited to~~  
26 ~~distributive dial tone, select number screening, toll restriction and~~  
27 ~~screening, nonattendant busy out, nonattend and call transfer, and select~~

1 ~~trunk hunting and screening~~ "BROADBAND SERVICE" INCLUDES SERVICE  
2 OFFERED OVER CABLE, WIRE (INCLUDING DIGITAL SUBSCRIBER LINE  
3 SERVICE), CMRS, SATELLITE, FIBER OPTIC FACILITIES, AND POWER-LINE  
4 FACILITIES. "BROADBAND SERVICE" IS NOT LIMITED TO INTERNET ACCESS  
5 SERVICE, NOR IS IT DEFINED BY CONNECTION SPEED OR PROCESSING RATE.

6 (5) "COMMERCIAL MOBILE RADIO SERVICE" OR "CMRS" MEANS  
7 CELLULAR OR WIRELESS SERVICE, PERSONAL COMMUNICATIONS SERVICE,  
8        RADIO COMMON CARRIER SERVICE, RADIO MOBILE SERVICE, AND  
9 ENHANCED SPECIALIZED MOBILE RADIO SERVICE AS AUTHORIZED BY THE  
10 FCC.

11 ~~(5)~~(6) "Commission" means the public utilities commission of the  
12 state of Colorado.

13 (7) "COMPETITIVE ELIGIBLE PROVIDER" MEANS A PROVIDER OF  
14 TELECOMMUNICATIONS SERVICE THAT HAS BEEN DESIGNATED AS ELIGIBLE  
15 FOR SUPPORT FROM THE COLORADO HIGH COST SUPPORT MECHANISM THAT  
16 IS NOT AN INCUMBENT LOCAL EXCHANGE CARRIER.

17 (8) "CUSTOMER" MEANS ANY PERSON, FIRM, CORPORATION, OR  
18 GOVERNMENTAL AGENCY SUBSCRIBING TO A LOCAL EXCHANGE  
19 PROVIDER'S BASIC LOCAL EXCHANGE SERVICE.

20 ~~(6)~~ (9) "Deregulated telecommunications services" means  
21 telecommunications services not subject to the jurisdiction of the  
22 commission pursuant to part 4 of this article.

23 ~~(6.5)~~ (10) "Distributed equitably" means that distribution by the  
24 commission of high cost support mechanism funding to eligible providers  
25 ~~shall be~~ IS accomplished using regulatory principles that are neutral in  
26 their effect ~~that~~ AND do not favor one class of providers over another. ~~and~~  
27 ~~that do not cause any eligible telecommunications provider to experience~~

1 a reduction in its high cost support mechanism support revenue  
2 requirement based upon commission rules that are not applicable to other  
3 telecommunications providers.

4 (7) (11) "Emerging competitive telecommunications services"  
5 means telecommunications services subject to regulation by the  
6 commission pursuant to part 3 of this article.

7 (8) (12) "Exchange area" means a geographic area established by  
8 the commission ~~which consists of one or more central offices together~~  
9 ~~with associated facilities which are used in~~ FOR THE PURPOSE OF providing  
10 basic local exchange service.

11 (13) "FCC" MEANS THE FEDERAL COMMUNICATIONS COMMISSION.

12 (14) "FIXED VOIP SERVICE" MEANS VOIP SERVICE THAT ONLY  
13 PERMITS A SUBSCRIBER TO MAKE CALLS FROM A FIXED ADDRESS.

14 (9) (15) ~~"Functionally equivalent" refers to services or products~~  
15 ~~which perform the same or similar tasks or functions to obtain~~  
16 ~~substantially the same result at reasonably comparable prices~~ A  
17 "FUNCTIONAL EQUIVALENT" FOR BASIC SERVICE EXISTS IF A CUSTOMER  
18 CAN USE ANY WIRELINE, CMRS, SATELLITE, OR FIXED VOIP SERVICE TO  
19 SEND AND RECEIVE VOICE TRANSMISSIONS FROM THE CUSTOMER'S  
20 LOCATION, TO AND FROM ANOTHER PERSON AT A DIFFERENT LOCATION, ON  
21 A REAL-TIME BASIS AT A REASONABLY COMPARABLE PRICE, TAKING INTO  
22 CONSIDERATION THE ADDITIONAL VALUE THAT MAY BE OFFERED BY THE  
23 FUNCTIONALLY EQUIVALENT SERVICE, SUCH AS MOBILITY OR OTHER  
24 ATTRIBUTES OF SUCH SERVICE.

25 (16) "GEOGRAPHIC AREA" MEANS AN ILEC'S STUDY AREA UNLESS  
26 THE ILEC SERVES FIFTY THOUSAND OR MORE ACCESS LINES, IN WHICH  
27 CASE "GEOGRAPHIC AREA" MEANS EACH EXCHANGE AREA. THE

1 COMMISSION SHALL USE A SMALLER AREA IF IT DETERMINES THAT A  
2 SMALLER AREA WOULD MORE ACCURATELY AND PRECISELY ASSESS THE  
3 NEED FOR HIGH COST SUPPORT.

4 (17) "INCUMBENT LOCAL EXCHANGE CARRIER" OR "ILEC" HAS THE  
5 MEANING SET FORTH IN 47 U.S.C. SEC. 251(h).

6 ~~(10)~~ (18) ~~"Informational~~ "INFORMATION services" means  
7 ~~nonstandard services provided to customers by means of personnel and~~  
8 ~~facilities which include personalized intercept, synthesized voice~~  
9 ~~messages, specialized bill services, and personalized number services~~ HAS  
10 THE MEANING SET FORTH IN 47 U.S.C. SEC. 153.

11 (19) "INSUFFICIENT COMPETITION" IN A GEOGRAPHIC AREA MEANS  
12 THAT AT LEAST NINETY PERCENT OF THE CUSTOMERS IN THAT GEOGRAPHIC  
13 AREA DO NOT HAVE A CHOICE OF AT LEAST FIVE PROVIDERS OR CARRIERS,  
14 INCLUDING WIRELINE, CMRS, SATELLITE, AND FIXED AND NOMADIC VOIP  
15 PROVIDERS THAT OFFER BASIC SERVICE OR ITS FUNCTIONAL EQUIVALENT.  
16 FOR THE PURPOSE OF THIS ANALYSIS, ONLY ONE NOMADIC VOIP PROVIDER  
17 AND ONLY ONE SATELLITE PROVIDER MAY BE COUNTED TOWARD THE FIVE  
18 PROVIDERS THRESHOLD.

19 ~~(11)~~ (20) "Interexchange provider" means a person who provides  
20 INTEREXCHANGE telecommunications services between exchange areas.

21 ~~(12)~~ (21) "Interexchange telecommunications ~~services~~ SERVICE"  
22 means a telephone ~~services~~, SERVICE BETWEEN EXCHANGE AREAS THAT IS  
23 not included in basic local exchange service. ~~and which are priced based~~  
24 ~~upon usage.~~

25 ~~(13)~~ "InterLATA" ~~means telecommunications services between~~  
26 ~~LATAs.~~

27 ~~(14)~~ "InterLATA interexchange telecommunications service"

1 ~~means long-distance service between LATAs.~~

2 ~~(15) "IntraLATA" means telecommunications service provided~~  
3 ~~within one LATA.~~

4 ~~(16) "IntraLATA interexchange telecommunications service"~~  
5 ~~means long-distance service within a LATA.~~

6 (22) "INTERNET PROTOCOL-ENABLED SERVICE" OR "IP-ENABLED  
7 SERVICE" MEANS, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (40)  
8 OF THIS SECTION, ANY SERVICE, CAPABILITY, FUNCTIONALITY, OR  
9 APPLICATION PROVIDED USING INTERNET PROTOCOL, OR ANY SUCCESSOR  
10 PROTOCOL, THAT ENABLES AN END USER TO SEND OR RECEIVE A  
11 COMMUNICATION IN INTERNET PROTOCOL FORMAT, OR ANY SUCCESSOR  
12 FORMAT, REGARDLESS OF WHETHER THE COMMUNICATION IS VOICE, DATA,  
13 OR VIDEO.

14 ~~(17)~~ (23) "LATA" means each local access and transport area  
15 ~~which~~ THAT has been designated in this state by the commission. A  
16 LATA may encompass more than one contiguous local exchange area in  
17 this state ~~which~~ THAT serves common social, economic, or other  
18 purposes, even where such area transcends municipal or other local  
19 governmental boundaries.

20 ~~(18)~~ (24) "Local exchange provider" OR "LOCAL EXCHANGE  
21 CARRIER" means any person authorized by the commission to provide  
22 basic local exchange service.

23 ~~(19)~~ (25) "New products and services" means any new product or  
24 service introduced separately or in combination with other products and  
25 services after January 1, 1988, ~~which~~ THAT is not functionally required to  
26 provide basic local exchange service and any new product or service  
27 ~~which~~ THAT is introduced after January 1, 1988, ~~which~~ THAT is not a



1 repackaged current product or service or a direct replacement for a  
2 regulated product or service. Repackaging any product or service  
3 deregulated under part 4 of this article with any service regulated under  
4 part 2 or 3 of this article ~~shall~~ IS not ~~be considered~~ a new product or  
5 service.

6 (26) "NOMADIC VOIP SERVICE" MEANS VOIP SERVICE THAT  
7 ENABLES A SUBSCRIBER TO ACCESS THE INTERNET TO MAKE A CALL FROM  
8 ANY BROADBAND INTERNET CONNECTION OUTSIDE THE RESIDENCE OF THE  
9 SUBSCRIBER.

10 ~~(19.3)~~ (27) "Nondiscriminatory, ~~and~~ competitively neutral basis"  
11 means that decisions by the commission concerning the distribution of  
12 high cost support mechanism ~~funding~~ SUPPORT to eligible providers ~~shall~~  
13 ~~be~~ ARE made using regulatory principles that are neutral in their effect.  
14 ~~that do not favor one class of providers over another, and that do not~~  
15 ~~result in the imposition of regulatory requirements or costs on one class~~  
16 ~~of eligible providers that are not imposed on others.~~

17 ~~(19.5)~~ (28) "Nonoptional operator services" means operator  
18 services requiring an operator for individualized call processing or  
19 specialized or alternative billing, including ~~without limitation,~~ credit card  
20 calls, calls billed to a third number, collect calls, and person-to-person  
21 calls.

22 ~~(20)~~ (29) "Operator services" means services, other than directory  
23 assistance, provided either by live operators or by the use of recordings  
24 or computer-voice interaction to enable customers to receive  
25 individualized and select telephone call processing or specialized or  
26 alternative billing functions. "Operator services" includes nonoptional  
27 operator services, optional operator services, and operator services

1 necessary for the provision of basic local exchange service.

2 ~~(20.3)~~ (30) "Operator services necessary for the provision of basic  
3 local exchange service" means operator services provided when operator  
4 intervention is required to complete a local call or obtain access to  
5 emergency services or to directory assistance.

6 ~~(20.6)~~ (31) "Optional operator services" means operator services  
7 not defined in subsection ~~(19.5) or (20.3)~~ (28) OR (30) of this section,  
8 including ~~without limitation~~, operator services provided in connection  
9 with conference calling, foreign language translation, operator services  
10 to provide telephone service to inmates at penal institutions, and voice  
11 messaging.

12 ~~(21)~~ (32) "Premium services" means any enhanced or improved  
13 product or service offered by a telecommunications SERVICE provider  
14 ~~which~~ THAT is not functionally required for the provision of basic local  
15 exchange or interexchange service and ~~which~~ THAT the customer may  
16 purchase at his OR HER option.

17 ~~(22)~~ (33) "Private line service" means any point-to-point or  
18 point-to-multipoint service dedicated to the exclusive use of an end user  
19 for the transmission of any telecommunications services.

20 ~~(23)~~ (a) ~~"Private telecommunications network" means a system,~~  
21 ~~including the construction, maintenance, or operation of such system, for~~  
22 ~~the provision of telecommunications service, or any portion of such~~  
23 ~~service, by a person or entity for the sole and exclusive use of such person~~  
24 ~~or entity and not for resale, directly or indirectly.~~

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

26 (I) ~~Any telecommunications service, the operation, facilities, or~~  
27 ~~premises of which are or may be shared by energy utilities, used solely~~

1 and exclusively by and for such utilities and not for resale, directly or  
2 indirectly; and

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

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

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

12 ~~(c) Construction, maintenance, or operation of a private~~  
13 ~~telecommunications network shall not constitute the provision of public~~  
14 ~~utility service, and such network shall not be subject to any of the~~  
15 ~~provisions of this article or of articles 1 to 7 of this title.~~

16 ~~(24)~~ (34) "Regulated telecommunications services" means  
17 telecommunications services treated as public utility services subject to  
18 the jurisdiction of the commission.

19 (35) "RETAIL SERVICE" MEANS A TELECOMMUNICATIONS SERVICE  
20 PROVIDED TO CUSTOMERS AND DOES NOT INCLUDE SERVICES PROVIDED TO  
21 OTHER TELECOMMUNICATIONS SERVICE PROVIDERS.

22 ~~(24.5)~~ (36) "Rural telecommunications provider LOCAL EXCHANGE  
23 CARRIER" means a local exchange provider OF TELECOMMUNICATIONS  
24 SERVICE that: ~~meets one or more of the following conditions:~~

25 (a) ~~Provides common carrier service to any local exchange carrier~~  
26 ~~study area, as defined by the commission, that does not include either: IS~~  
27 ~~SUBJECT TO COMMISSION REGULATION AS AN ELIGIBLE PROVIDER OF BASIC~~

1 LOCAL EXCHANGE SERVICE OR A PROVIDER OF LAST RESORT;

2 ~~(I) Any incorporated place of ten thousand inhabitants or more, or~~  
3 ~~any part thereof, based on the most recently available population statistics~~  
4 ~~of the United States bureau of the census; or~~

5 ~~(II) Any territory, incorporated or unincorporated, included in an~~  
6 ~~urbanized area, as defined by the United States bureau of the census as of~~  
7 ~~August 10, 1993;~~

8 ~~(b) Provides telephone exchange service, including exchange~~  
9 ~~access, to SERVES fewer than fifty SEVENTY-FIVE thousand access lines;~~

10 AND

11 ~~(c) Provides telephone exchange service to any local exchange~~  
12 ~~carrier study area, as defined by the commission, with fewer than one~~  
13 ~~hundred thousand access lines; or IS NOT AFFILIATED OR UNDER COMMON~~  
14 ~~CONTROL WITH ANY OTHER KIND OF REGULATED PUBLIC UTILITY~~  
15 ~~PROVIDING TELECOMMUNICATIONS SERVICE IN COLORADO.~~

16 ~~(d) Has less than fifteen percent of its access lines in communities~~  
17 ~~of more than fifty thousand inhabitants.~~

18 ~~(25) (37) "Special access" means any point-to-point or~~  
19 ~~point-to-multipoint service provided by a local exchange provider~~  
20 ~~dedicated to the exclusive use of any interexchange provider for the~~  
21 ~~transmission of any telecommunications services.~~

22 ~~(26) "Special arrangements" means custom assemblies of optional~~  
23 ~~manufactured products which allow users to select nonstandard interfaces~~  
24 ~~and switched or dedicated facilities in combinations for select, specialized~~  
25 ~~custom applications, including but not limited to combinations of~~  
26 ~~microwave, coaxial or copper cable, fiber optics, multiplexing equipment,~~  
27 ~~or specialized electronics. "Special arrangements" does not include~~

1 access.

2 ~~(27) "Special assemblies" means services provided to customers~~  
3 ~~who require special or nonstandard conditioning for interoffice or~~  
4 ~~intraoffice connections or image-data use interruptions for combination~~  
5 ~~lines.~~

6 (38) "STAND-ALONE BASIC SERVICE" MEANS THE OFFERING OF  
7 BASIC SERVICE BY ITSELF FOR A PRICE BY A CARRIER.

8 (39) "STUDY AREA" HAS THE MEANING SET FORTH IN 47 CFR 36,  
9 APPENDIX A.

10 (40) "SUFFICIENT COMPETITION" IN A GEOGRAPHIC AREA MEANS  
11 THAT AT LEAST NINETY PERCENT OF THE CUSTOMERS IN THAT GEOGRAPHIC  
12 AREA HAVE A CHOICE OF AT LEAST FIVE PROVIDERS OR CARRIERS,  
13 INCLUDING WIRELINE, CMRS, SATELLITE, AND FIXED AND NOMADIC VOIP  
14 PROVIDERS THAT OFFER BASIC SERVICE OR ITS FUNCTIONAL EQUIVALENT.  
15 FOR THE PURPOSE OF THIS ANALYSIS, ONLY ONE NOMADIC VOIP PROVIDER  
16 AND ONE SATELLITE PROVIDER MAY BE COUNTED TOWARD THE FIVE  
17 PROVIDERS THRESHOLD.

18 ~~(28)~~ (41) "Switched access" means the services or facilities  
19 furnished by a ~~local exchange company~~ TELECOMMUNICATIONS PROVIDER  
20 to interexchange providers ~~which~~ THAT allow them to use the basic  
21 exchange network for origination or termination of interexchange  
22 telecommunications services.

23 ~~(29)~~ (42) "TELECOMMUNICATIONS" AND "telecommunications  
24 service" ~~means the electronic or optical transmission of information~~  
25 ~~between separate points by prearranged means~~ HAVE THE MEANINGS SET  
26 FORTH IN 47 U.S.C. SEC. 153.

27 ~~(30)~~ (43) "Toll reseller PROVIDER" means a person who provides

1 toll services to ~~end use~~ customers by ~~using the~~ transmission facilities,  
2 including ~~without limitation~~ wire, cable, optical fiber, or satellite or  
3 terrestrial radio signals. ~~of another person. A toll reseller may, but need~~  
4 ~~not, possess its own switching facilities.~~

5 (31) (44) "Toll service" means a type of telecommunications  
6 service, commonly known as long-distance service, that is provided on an  
7 intrastate basis ~~between LATAs and within LATAs~~ and that is:

- 8 (a) Not included as a part of basic local exchange service;
- 9 (b) Provided between local calling areas; and
- 10 (c) Billed to the customer separately from basic local exchange  
11 service.

12 (45) "VOICE OVER INTERNET PROTOCOL SERVICE" OR "VOIP"  
13 MEANS ANY SERVICE THAT:

- 14 (a) ENABLES REAL-TIME, TWO-WAY VOICE COMMUNICATIONS THAT  
15 ORIGINATE FROM OR TERMINATE AT THE USER'S LOCATION IN INTERNET  
16 PROTOCOL OR ANY SUCCESSOR PROTOCOL;
- 17 (b) USES A BROADBAND CONNECTION FROM THE USER'S LOCATION;
- 18 AND
- 19 (c) PERMITS A USER GENERALLY TO RECEIVE CALLS THAT  
20 ORIGINATE ON THE PUBLIC SWITCHED TELEPHONE NETWORK AND TO  
21 TERMINATE CALLS TO THE PUBLIC SWITCHED TELEPHONE NETWORK.

22 **SECTION 4.** In Colorado Revised Statutes, **repeal** 40-15-105 as  
23 follows:

24 **40-15-105. Nondiscriminatory access charges.** ~~(1) No local~~  
25 ~~exchange provider shall, as to its pricing and provision of access, make~~  
26 ~~or grant any preference or advantage to any person providing~~  
27 ~~telecommunications service between exchanges nor subject any such~~

1 ~~person to, nor itself take advantage of, any prejudice or competitive~~  
2 ~~disadvantage for providing access to the local exchange network. Access~~  
3 ~~charges by a local exchange provider shall be cost-based, as determined~~  
4 ~~by the commission, but shall not exceed its average price by rate element~~  
5 ~~and by type of access in effect in the state of Colorado on July 1, 1987.~~

6 ~~(2) At its option, any rural telecommunications provider may, in~~  
7 ~~lieu of the provisions of subsection (1) of this section, remain under the~~  
8 ~~jurisdiction of the commission pursuant to part 2 of this article. A rural~~  
9 ~~telecommunications provider operating under this subsection (2) may at~~  
10 ~~any time apply to the commission for regulatory relief under section~~  
11 ~~40-15-203 or 40-15-207. Such rural telecommunications provider, upon~~  
12 ~~the granting of regulatory relief, shall provide access services under the~~  
13 ~~conditions established in subsection (1) of this section, except that the~~  
14 ~~commission shall set the maximum price for access services for such~~  
15 ~~provider.~~

16 ~~(3) Contracts for access pursuant to subsection (1) of this section~~  
17 ~~shall be filed with the commission and open to review by other purchasers~~  
18 ~~of such access to assure compliance with the provisions of this section.~~  
19 ~~Prior to such review, the purchaser desiring such review shall execute a~~  
20 ~~nondisclosure agreement as determined by the commission for the~~  
21 ~~protection of business and trade secrets.~~

22 **SECTION 5.** In Colorado Revised Statutes, 40-15-107, **amend**  
23 **(1); and repeal (3) as follows:**

24 **40-15-107. Powers of commission - inspection of books and**  
25 **documents - confidentiality of information obtained through audit.**

26 (1) The commission shall administer and enforce all provisions of this  
27 article, and, in addition to any other powers under articles 1 to 7 of this

1 title, the commission has the right to inspect the FINANCIAL books and  
2 FINANCIAL documents of ~~the~~ A local exchange provider, ~~The local~~  
3 ~~exchange provider shall supply additional relevant and material~~  
4 ~~information to the commission as needed~~ BUT ONLY IF THE PROVIDER  
5 OPERATES IN AN AREA OF INSUFFICIENT COMPETITION OR RECEIVES HIGH  
6 COST SUPPORT OR OTHER REGULATED TELECOMMUNICATIONS SUBSIDIES  
7 FROM THE STATE OR FEDERAL GOVERNMENT. In addition, the commission  
8 has the right to inspect the FINANCIAL books and records of any affiliate  
9 of SUCH a local exchange provider ~~which~~ THAT provides  
10 telecommunications service under part 2, 3, or 4 of this article, if, in the  
11 provision of such service, the affiliate uses a plant or incurs costs that are  
12 joint and common to the provision of ~~any~~ basic local exchange service.  
13 ~~of the local exchange provider regulated under part 2 of this article~~  
14 NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, THE COMMISSION  
15 HAS THE RIGHT TO INSPECT THE 911 SERVICE-RELATED BOOKS AND  
16 DOCUMENTS OF A REGULATED LOCAL EXCHANGE PROVIDER THAT IS  
17 WITHIN THE COMMISSION'S JURISDICTION. UPON COMMISSION APPROVAL  
18 IN OPEN PUBLIC DELIBERATIONS AND A SHOWING OF JUST CAUSE, THE  
19 COMMISSION MAY GRANT ITS STAFF ADDITIONAL AUTHORITY TO INSPECT  
20 THE BOOKS AND RECORDS OF A REGULATED LOCAL EXCHANGE PROVIDER.

21 (3) ~~The commission shall have no authority to regulate telephone~~  
22 ~~or telecommunications service from inmates at penal institutions.~~

23 **SECTION 6.** In Colorado Revised Statutes, **repeal** 40-15-111 as  
24 follows:

25 **40-15-111. Regulation of the discontinuation or**  
26 **rearrangement of basic local exchange service - measured or message**  
27 **rate service not required.** ~~(1) Every local exchange provider shall~~



1 ~~continue to offer and provide basic local exchange service in any~~  
2 ~~exchange area it serves immediately prior to July 2, 1996, unless the~~  
3 ~~commission determines that an alternative provider offers or provides~~  
4 ~~functionally equivalent service to the customers in such exchange area.~~

5 ~~(2) Rearrangements of exchange areas shall require a~~  
6 ~~determination by the commission that such rearrangement will promote~~  
7 ~~the public interest and welfare and will not adversely impact the public~~  
8 ~~switched network of the affected local exchange provider or such~~  
9 ~~provider's financial integrity.~~

10 ~~(3) Measured or message rate service for end user customers shall~~  
11 ~~not be required in order for such customers to obtain basic local exchange~~  
12 ~~service unless the commission so orders.~~

13 ~~(4) A telecommunications provider shall not base its charges for~~  
14 ~~basic local exchange service on the volume or amount of data or voice~~  
15 ~~traffic of an individual subscriber except with the prior approval of the~~  
16 ~~commission following notice and the opportunity for a hearing.~~

17 **SECTION 7.** In Colorado Revised Statutes, 40-15-113, **amend**  
18 (1) (c) as follows:

19 **40-15-113. Unauthorized charge for services.** (1) A provider of  
20 telecommunications services shall not engage in the following activities:

21 (c) When providing billing services for a telecommunications  
22 SERVICE provider, knowingly or recklessly participating in charging or  
23 billing a customer for goods or services without the customer's  
24 authorization to add such goods or services to the customer's bill; except  
25 that, in accordance with federal law, this paragraph (c) ~~shall~~ DOES not  
26 apply to a provider of wireless CMRS services.

27 **SECTION 8.** In Colorado Revised Statutes, **amend** 40-15-201 as

1 follows:

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

21 (2) The following products, services, and providers are declared  
22 to be subject to regulation pursuant to this part 2 and subject to potential  
23 reclassification under section 40-15-207:

- 24 (a) Basic local exchange service; AND
- 25 (b) ~~Basic~~ Emergency service 911 SERVICES.
- 26 (c) ~~(Deleted by amendment, L. 99, p. 185, § 3, effective March 31,~~
- 27 ~~1999.)~~

- 1           ~~(d) White page directory listing;~~
- 2           ~~(e) Local exchange listed telephone number service;~~
- 3           ~~(f) New products and services included in the definition of basic~~
- 4 ~~local exchange service;~~
- 5           ~~(g) Dual tone multifrequency signaling;~~
- 6           ~~(h) Operator services necessary for the provision of basic local~~
- 7 ~~exchange service.~~

8           **SECTION 9.** In Colorado Revised Statutes, 40-15-202, **amend**  
9 (3) as follows:

10           **40-15-202. Certificate required.** (3) ~~The commission is~~  
11 ~~authorized to issue a certificate of public convenience and necessity to a~~  
12 ~~provider of services regulated in this part 2, and the commission may~~  
13 ~~attach to the exercise of the rights granted by said certificate such terms~~  
14 ~~and conditions as, in its judgment, the public convenience and necessity~~  
15 ~~may require~~ EFFECTIVE JULY 1, 2012, A LOCAL EXCHANGE CARRIER MAY,  
16 AT ITS OPTION, CONVERT ANY CERTIFICATE OF PUBLIC CONVENIENCE AND  
17 NECESSITY TO PROVIDE SERVICE IN A GEOGRAPHIC AREA INTO A  
18 CERTIFICATE TO PROVIDE THE SERVICE STATEWIDE BY FILING A NOTICE OF  
19 CONVERSION LETTER WITH THE COMMISSION. UPON RECEIPT OF A NOTICE  
20 OF CONVERSION LETTER, THE COMMISSION SHALL ISSUE AN ORDER  
21 CONVERTING THE CERTIFICATE.

22           **SECTION 10.** In Colorado Revised Statutes, **repeal** 40-15-203  
23 as follows:

24           **40-15-203. Manner of regulation - refraining from regulation.**

- 25           ~~(1) Repealed.~~
- 26           ~~(2) In accordance with the provisions of this part 2, upon its own~~
- 27 ~~motion or application of a local exchange provider, the commission may~~

1     ~~refrain from regulation for competitive purposes, and authorize a local~~  
2     ~~exchange provider to provide all or a portion of a private~~  
3     ~~telecommunications network service under stated or negotiated terms to~~  
4     ~~any person or entity that has acquired, is contemplating the acquisition of,~~  
5     ~~or is operating a private telecommunications network.~~

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

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

12            ~~(II) The name and address of the person or entity that has~~  
13    ~~acquired, is contemplating the acquisition of, or is operating a private~~  
14    ~~telecommunications network;~~

15            ~~(III) A statement of what products or services of the local~~  
16    ~~exchange provider are offered or are being provided by such private~~  
17    ~~telecommunications network;~~

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

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

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

26            ~~(c) The local exchange provider's application for refraining from~~  
27    ~~regulation for competitive purposes and all information contained therein~~

1 shall remain confidential.

2 (d) ~~The commission shall approve or deny any such application~~  
3 ~~for refraining from regulation for competitive purposes within ten days~~  
4 ~~after the filing of the application; except that the commission may, by~~  
5 ~~order, defer the period within which it must act for one additional period~~  
6 ~~of five days. If the commission has not acted on any such application~~  
7 ~~within the appropriate time period permitted, the application shall be~~  
8 ~~deemed granted.~~

9 (4) (a) ~~Upon approval of an application for refraining from~~  
10 ~~regulation for competitive purposes, the local exchange provider may~~  
11 ~~thereafter negotiate with the person or entity that intends to acquire, is~~  
12 ~~contemplating the acquisition of, or is operating a private~~  
13 ~~telecommunications network without regard to its obligations as a public~~  
14 ~~utility under articles 1 to 7 of this title, including any tariffs of such~~  
15 ~~company on file and approved by the commission.~~

16 (b) ~~Within ten days after the conclusion of such negotiations~~  
17 ~~between the local exchange provider and the entity which intends to~~  
18 ~~acquire, is contemplating the acquisition of, or is operating a private~~  
19 ~~telecommunications network, such provider shall file with the~~  
20 ~~commission the final contract or other evidence of what basic local~~  
21 ~~exchange service will be provided to such person or entity and what will~~  
22 ~~be the charges and costs for such service. The final contracts or other~~  
23 ~~evidence and all information contained therein shall remain confidential.~~  
24 ~~Thereafter, for any basic local exchange service actually furnished~~  
25 ~~through a private telecommunications network to a person or entity that~~  
26 ~~is a party to a contract or other arrangement that has been filed with the~~  
27 ~~commission pursuant to this section, such provider may also furnish or~~

1 offer to furnish similar basic local exchange service to such person or  
2 entity operating such private telecommunications network without regard  
3 to its obligations as a public utility under articles 1 to 7 of this title,  
4 including any tariffs of such provider on file and approved by the  
5 commission. The commission shall not have the power to approve or  
6 disapprove services provided or the charges therefor, but this limitation  
7 shall not prevent the commission from considering and evaluating the  
8 same, and the costs associated therewith, for general regulatory purposes.

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

12 (6) (a) Upon its own motion or application of a provider of  
13 telecommunications service regulated under this part 2, the commission  
14 may, in lieu of reclassification of a service under section 40-15-207,  
15 examine whether it should refrain from regulation and may refrain from  
16 regulation for competitive need for specific telecommunications service  
17 otherwise subject to its jurisdiction.

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

25 (7) The authority granted the commission pursuant to this section  
26 is in addition to, and not a limitation upon, other powers of the  
27 commission, and such authority shall not be construed to be the sole or

1 ~~exclusive means by which the commission may refrain from regulation~~  
2 ~~under this title.~~

3 ~~(8) Notwithstanding the provisions of this section, no expenses~~  
4 ~~incurred in the solicitation and the provision of services under this section~~  
5 ~~shall be paid, directly or indirectly, by the subscribers of the applicant's~~  
6 ~~regulated services.~~

7 **SECTION 11.** In Colorado Revised Statutes, **add** 40-15-203.1 as  
8 follows:

9 **40-15-203.1. Regulation of the discontinuation or**  
10 **rearrangement of basic local exchange service - measured or message**  
11 **rate service not required.** (1) IN AREAS OF INSUFFICIENT COMPETITION,  
12 EVERY INCUMBENT LOCAL EXCHANGE CARRIER SHALL CONTINUE TO OFFER  
13 AND PROVIDE BASIC LOCAL EXCHANGE SERVICE IN ANY EXCHANGE AREA  
14 IT SERVED IMMEDIATELY PRIOR TO JULY 2, 1996.

15 (2) LOCAL EXCHANGE CARRIERS ARE NOT REQUIRED TO OFFER  
16 MEASURED OR MESSAGE RATE SERVICE UNLESS THE COMMISSION SO  
17 ORDERS.

18 **SECTION 12.** In Colorado Revised Statutes, **amend** 40-15-203.5  
19 as follows:

20 **40-15-203.5. Simplified regulatory treatment for rural local**  
21 **exchange carriers - rules.** (1) (a) The commission, with due  
22 consideration of the public interest, quality of service, financial condition,  
23 and just and reasonable rates, shall grant regulatory treatment that is less  
24 comprehensive than otherwise provided for under this article to rural  
25 ~~telecommunications providers as defined in section 40-15-102 (24.5)~~  
26 LOCAL EXCHANGE CARRIERS. The commission shall issue policy  
27 statements and rules ~~and regulations~~ that maintain reasonable regulatory

1 oversight and that consider the cost of regulation in relation to the benefit  
2 derived from such THE regulation. These rules and regulations shall MUST  
3 encourage the cost-effective deployment and use of modern  
4 telecommunications technology. All proposed rules applicable to rural  
5 ~~telecommunications providers~~ LOCAL EXCHANGE CARRIERS that come  
6 before the commission shall MUST consider the economic impact on THE  
7 COLORADO HIGH COST SUPPORT MECHANISM AND ON rural  
8 ~~telecommunications providers~~ LOCAL EXCHANGE CARRIERS and their  
9 subscribers. The commission and rural ~~telecommunications providers~~ are  
10 ~~encouraged to~~ LOCAL EXCHANGE CARRIERS SHALL work together in a  
11 cooperative and proactive fashion to implement this section.

12 (b) AS AN ELEMENT OF SIMPLIFIED REGULATORY TREATMENT, THE  
13 COMMISSION SHALL EMPLOY PRICE FLEXIBILITY, IN WHICH THE CARRIER IS  
14 AUTHORIZED TO RAISE AND LOWER ITS PRICE FOR STAND-ALONE BASIC  
15 SERVICE WITHIN A RANGE ESTABLISHED BY THE COMMISSION, SUBJECT  
16 ONLY TO ONE DAY'S NOTICE TO CUSTOMERS BY POSTING ON THE CARRIER'S  
17 WEB SITE AND ONE DAY'S WRITTEN OR ELECTRONIC NOTICE TO THE  
18 COMMISSION. IN DETERMINING A PRICE RANGE FOR STAND-ALONE SERVICE,  
19 THE COMMISSION SHALL TAKE INTO ACCOUNT:

20 (I) THE BENEFICIAL EFFECT OF DECREASING THE HIGH COST  
21 SUPPORT MECHANISM ASSESSMENT TO CUSTOMERS AS A RESULT OF  
22 ALLOWING INCREASES TO RATES;

23 (II) INFLATION;

24 (III) WHETHER THE AMOUNT OF SUBSTITUTION OF WIRELINE  
25 SERVICES AND COMPETITION IN RURAL AREAS WILL ACT TO DETER RATE  
26 INCREASES;

27 (IV) THE COST OF PROVIDING SERVICE IN RURAL HIGH COST AREAS;



1 AND

2 (V) PRICE OF SERVICE FOR RURAL CUSTOMERS.

3 (2) NOTWITHSTANDING PART 2 OR 3 OF THIS ARTICLE:

4 (a) ANY SERVICE OR PACKAGE OF SERVICES OFFERED BY A RURAL  
5 LOCAL EXCHANGE CARRIER AND SUBJECT TO REGULATION UNDER PART 2  
6 OR 3 OF THIS ARTICLE, OTHER THAN EMERGENCY 911 SERVICES,  
7 STAND-ALONE BASIC SERVICE, OR SWITCHED ACCESS, IS SUBJECT TO PRICE  
8 FLEXIBILITY RATE ADJUSTMENT. THESE RATE ADJUSTMENTS ARE NOT  
9 SUBJECT TO REJECTION, MODIFICATION, OR SUSPENSION BY THE  
10 COMMISSION UNLESS THE ADJUSTMENTS HAVE THE EFFECT OF RAISING THE  
11 COLORADO HIGH COST SUPPORT MECHANISM.

12 (b) (I) A RURAL LOCAL EXCHANGE CARRIER MAY INCREASE ITS  
13 RATES FOR STAND-ALONE BASIC SERVICE WITH PRIOR APPROVAL BY THE  
14 COMMISSION. A RURAL LOCAL EXCHANGE CARRIER MAY LOWER THESE  
15 RATES WITHOUT COMMISSION APPROVAL.

16 (II) THE COMMISSION SHALL ADOPT RULES AUTHORIZING A RURAL  
17 LOCAL EXCHANGE CARRIER TO CHANGE ITS STAND-ALONE BASIC SERVICE  
18 RATES TO COMPLY WITH ANY BENCHMARK RATE FLOOR OR CEILING  
19 ADOPTED EITHER BY THE COMMISSION OR BY THE FCC, EFFECTIVE THIRTY  
20 DAYS AFTER THE CARRIER FILES THE CHANGE WITH THE COMMISSION.

21 (III) A RURAL LOCAL EXCHANGE CARRIER SHALL NOT BE REQUIRED  
22 UNDER THIS SUBSECTION (2) TO PROVIDE A REVENUE REQUIREMENT  
23 CALCULATION OR COST JUSTIFICATION IF THE PROPOSED INCREASE FALLS  
24 WITHIN ANY ESTABLISHED FLOOR OR CEILING RATE PARAMETERS.

25 (c) NOTHING IN THIS SECTION AFFECTS THE COMMISSION'S  
26 AUTHORITY TO REGULATE A RURAL LOCAL EXCHANGE CARRIER'S  
27 WHOLESALE OBLIGATIONS UNDER FEDERAL LAW.

1           (3) A RURAL LOCAL EXCHANGE CARRIER MAY INITIATE AN  
2 APPLICATION FOR FORBEARANCE CONCERNING ANY RULE OF THE  
3 COMMISSION THAT THE CARRIER BELIEVES CONFLICTS WITH THE  
4 REQUIREMENTS OF THIS SECTION. IN REVIEWING A FORBEARANCE  
5 PETITION, THE COMMISSION SHALL CONSIDER THE PUBLIC INTEREST, THE  
6 POLICY OBJECTIVES EXPRESSED BY THE GENERAL ASSEMBLY IN THIS  
7 ARTICLE, AND THE REQUIREMENTS OF THIS SECTION.

8           **SECTION 13.** In Colorado Revised Statutes, **amend** 40-15-204  
9 as follows:

10           **40-15-204. Transfer of certificate.** Any certificate of public  
11 convenience and necessity issued pursuant to this part 2 may be sold,  
12 assigned, leased, encumbered, or transferred as other property only upon  
13 ~~authorization by~~ NOTICE OF AT LEAST SEVEN DAYS IN ADVANCE TO the  
14 commission.

15           **SECTION 14.** In Colorado Revised Statutes, **repeal** 40-15-205  
16 as follows:

17           **40-15-205. Violations.** ~~Violations of this part 2 by a~~  
18 ~~telecommunications provider are subject to enforcement and penalties as~~  
19 ~~provided in article 7 of this title.~~

20           **SECTION 15.** In Colorado Revised Statutes, 40-15-206, **repeal**  
21 (1) as follows:

22           **40-15-206. Regulation of the discontinuation or**  
23 **rearrangement of basic local exchange service - measured or message**  
24 **rate service not required.** (1) ~~Every local exchange provider shall~~  
25 ~~continue to offer and provide basic local exchange service in any~~  
26 ~~exchange area it serves immediately prior to July 2, 1987, unless the~~  
27 ~~commission determines that an alternative provider offers or provides~~

1 ~~functionally equivalent service to the customers in such exchange area.~~

2 **SECTION 16.** In Colorado Revised Statutes, **amend** 40-15-207  
3 as follows:

4 **40-15-207. Reclassification of services and products.**

5 ~~(1)(a) Notwithstanding any other provision of this title, upon its own~~  
6 ~~motion or upon application by any person, the commission shall regulate,~~  
7 ~~pursuant to part 3 of this article, specific telecommunications services~~  
8 ~~regulated under this part 2 upon a finding that there is effective~~  
9 ~~SUFFICIENT competition in the relevant market GEOGRAPHIC AREA for~~  
10 ~~such service and that such regulation under part 3 of this article will~~  
11 ~~promote the public interest and the provision of adequate and reliable~~  
12 ~~service at just and reasonable rates THOSE SERVICES.~~

13 ~~(b) In determining whether effective competition for a specific~~  
14 ~~telecommunications service exists, the commission shall make findings,~~  
15 ~~after notice and opportunity for hearing, and shall issue an order based~~  
16 ~~upon consideration of the following factors:~~

17 ~~(I) The extent of economic, technological, or other barriers to~~  
18 ~~market entry and exit;~~

19 ~~(II) The number of other providers offering similar services in the~~  
20 ~~relevant geographic area;~~

21 ~~(III) The ability of consumers in the relevant geographic area to~~  
22 ~~obtain the service from other providers at reasonable and comparable~~  
23 ~~rates, on comparable terms, and under comparable conditions;~~

24 ~~(IV) The ability of any provider of such telecommunications~~  
25 ~~service to affect prices or deter competition; and~~

26 ~~(V) Such other factors as the commission deems appropriate.~~

27 ~~(c) In determining geographic areas under paragraph (b) of this~~

1 subsection (1), the commission shall not be unduly restrictive.

2 **SECTION 17.** In Colorado Revised Statutes, 40-15-208, **amend**  
3 (2) (a) and (3); and **add** (1.5) and (4) as follows:

4 **40-15-208. High cost support mechanism - Colorado high cost**  
5 **administration fund - creation - purpose - operation - rules.** (1.5) THE  
6 GENERAL ASSEMBLY FINDS AND DECLARES THAT COLORADO CITIZENS  
7 SHOULD HAVE ACCESS TO BASIC LOCAL EXCHANGE SERVICE OR ITS  
8 FUNCTIONAL EQUIVALENT AT AFFORDABLE RATES, AND THAT GOAL CAN  
9 BE MET THROUGH COMPETITIVE SERVICE OFFERINGS AND NEW  
10 TECHNOLOGIES. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES  
11 THAT IT IS IN THE INTEREST OF COLORADO'S CITIZENS TO LIMIT THE SIZE  
12 AND GROWTH OF THE COLORADO HIGH COST SUPPORT MECHANISM, AND  
13 TO MODERNIZE AND EVENTUALLY DISCONTINUE THE MECHANISM.

14 (2) (a) (I) The commission is ~~hereby authorized to~~ MAY establish  
15 a mechanism for the support of universal service, also referred to in this  
16 section as the "high cost support mechanism", which ~~shall~~ MUST operate  
17 in accordance with rules adopted by the commission. The primary  
18 purpose of the high cost support mechanism is to provide EXPLICIT  
19 financial assistance ~~as a support mechanism~~ to local exchange providers  
20 to help make basic local exchange service affordable. ~~and allow such~~  
21 ~~providers to be fully reimbursed for the difference between the reasonable~~  
22 ~~costs incurred in making basic service available to their customers within~~  
23 ~~a rural, high cost geographic support area and the price charged for such~~  
24 ~~service, after taking into account any amounts received by such providers~~  
25 ~~under price support mechanisms established by the federal government~~  
26 ~~and by this state. The high cost support mechanism may also be used, to~~  
27 ~~the extent necessary, to supplement any gifts, grants, and donations~~

1 received pursuant to section ~~24-37.5-106 (3) (f), C.R.S.~~, in assisting the  
2 office of information technology in preparing the statewide inventory of  
3 available broadband services as provided in section ~~24-37.5-106 (3),~~  
4 ~~C.R.S.~~

5 (II) ~~The commission shall ensure that no local exchange provider~~  
6 ~~is receiving funds from this or any other source that, together with local~~  
7 ~~exchange service revenues, exceeds the cost of providing local exchange~~  
8 ~~service to customers of such provider.~~ THE COMMISSION SHALL ENSURE  
9 THAT SUPPORT PROVIDED TO RURAL LOCAL EXCHANGE PROVIDERS WITHIN  
10 A GIVEN GEOGRAPHIC AREA IS SUFFICIENT TO SUPPORT EXISTING RURAL  
11 LOCAL EXCHANGE NETWORKS AND ENCOURAGE THE PROVISION OF BASIC  
12 SERVICE AT RATES, TERMS, AND CONDITIONS THAT ARE REASONABLY  
13 COMPARABLE TO THOSE IN URBAN AREAS OF THE STATE. THIS LEVEL OF  
14 SUPPORT SHALL INCLUDE A REASONABLE RATE OF RETURN FOR AN  
15 EFFICIENT PROVIDER OF RURAL LOCAL EXCHANGE SERVICES. The high cost  
16 support mechanism ~~shall~~ MUST be supported and distributed equitably and  
17 on a nondiscriminatory, competitively neutral basis through a neutral  
18 assessment on all telecommunications service providers in Colorado.

19 (III) (A) THE COMMISSION SHALL DETERMINE THE ELIGIBILITY OF  
20 RURAL LOCAL EXCHANGE CARRIERS FOR HIGH COST SUPPORT USING A  
21 TRADITIONAL RESIDUAL REVENUE REQUIREMENT CALCULATION FORMULA  
22 THAT INCLUDES TOTAL COMPANY REGULATED REVENUES, EXPENSES, AND  
23 NET INVESTMENT AND THAT USES THE COST METHODOLOGY AND RATE OF  
24 RETURN AUTHORIZED FOR INTERSTATE PURPOSES BY THE FCC.

25 (B) A RURAL LOCAL EXCHANGE CARRIER MAY PETITION THE  
26 COMMISSION FOR A DETERMINATION OF ITS ELIGIBILITY FOR HIGH COST  
27 SUPPORT. THE COMMISSION SHALL MAKE THIS DETERMINATION USING THE

1 SAME PROCESS AS IT USED PRIOR TO OCTOBER 27, 2011, INCLUDING THE  
2 REQUIREMENT FOR ANNUAL EARNINGS MONITORING REPORTS, AND SHALL  
3 NOT OPEN A TRADITIONAL RATE CASE IN RESPONSE TO THE PETITION. A  
4 PETITION NOT APPROVED OR DENIED WITHIN ONE HUNDRED TWENTY DAYS  
5 AFTER FILING IS APPROVED.

6 (C) ALL RURAL LOCAL EXCHANGE CARRIERS AND COMPETITIVE  
7 ELIGIBLE PROVIDERS ARE ENTITLED TO PRIORITY FOR PURPOSES OF HIGH  
8 COST SUPPORT, REGARDLESS OF ANY STATUTORY LIMIT ON THE TOTAL  
9 AMOUNT OF DISTRIBUTIONS.

10 (IV) THE COMMISSION SHALL ESTABLISH A SCHEDULE TO  
11 ELIMINATE SUPPORT FOR ILECs IN ANY AREAS IN WHICH IT DETERMINES  
12 THAT CONSUMERS HAVE ACCESS TO BASIC LOCAL EXCHANGE SERVICE AT  
13 AFFORDABLE RATES, RENDERING SUCH FINANCIAL SUPPORT TO MEET  
14 UNIVERSAL SERVICE GOALS NO LONGER NECESSARY. ON OR BEFORE  
15 JANUARY 1, 2013, THE COMMISSION SHALL ELIMINATE ALL SUPPORT FOR  
16 NON-RURAL ILECs FROM THE COLORADO HIGH COST SUPPORT  
17 MECHANISM, ALSO REFERRED TO IN THIS SECTION AS THE CHCSM, TO  
18 AREAS IN WHICH SUFFICIENT COMPETITION EXISTS. SUPPORT FOR RURAL  
19 LOCAL EXCHANGE CARRIERS AND COMPETITIVE LOCAL EXCHANGE  
20 CARRIERS SHALL NOT BE REDUCED BY OPERATION OF THIS SUBPARAGRAPH  
21 (IV).

22 (V) THE COMMISSION SHALL FREEZE SUPPORT PROVIDED TO  
23 COMPETITIVE ELIGIBLE PROVIDERS FOR THE PROVISION OF BASIC LOCAL  
24 EXCHANGE SERVICE WITHIN GEOGRAPHIC AREAS SERVED BY A NON-RURAL  
25 INCUMBENT LOCAL EXCHANGE CARRIER AT SUPPORT LEVELS, ON A  
26 PER-LINE BASIS, RECEIVED ON DECEMBER 31, 2011; EXCEPT THAT THIS  
27 SUBPARAGRAPH (V) DOES NOT PREVENT COMPETITIVE PROVIDERS FROM

1 BECOMING ELIGIBLE FOR SUPPORT AFTER DECEMBER 31, 2011. SUPPORT  
2 FOR EXISTING ELIGIBLE PROVIDERS AND NEW ELIGIBLE PROVIDERS SHALL  
3 BE PROVIDED ON A PRO-RATA BASIS AT THE FROZEN SUPPORT LEVEL  
4 ESTABLISHED BY THIS SUBPARAGRAPH (V).

5 (VI) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, THE  
6 COMMISSION SHALL FREEZE THE CHCSM AT THE AMOUNT OF SUPPORT  
7 PAID OUT FOR THE YEAR 2011, AND THE COMMISSION SHALL NOT  
8 AUTHORIZE ANY INCREASE IN THE SIZE OF THE COLORADO HIGH COST  
9 SUPPORT MECHANISM NOR SHALL IT INCREASE THE AMOUNT OF ANY  
10 ASSESSMENT OR SURCHARGE IMPOSED TO FUND THE PROGRAM.

11 (VII) ON MARCH 31, 2013, THE COMMISSION SHALL, ON A  
12 ONE-TIME BASIS, TRANSFER FIVE MILLION DOLLARS OF THE CHCSM  
13 ACCOUNT TO THE OFFICE OF INFORMATION TECHNOLOGY AS SEED MONEY  
14 FOR THE BROADBAND CAPITAL INVESTMENT FUND AS SET FORTH IN  
15 SUBPARAGRAPH (IX) OF THIS PARAGRAPH (a) AND PART 8 OF ARTICLE 37.5  
16 OF TITLE 24, C.R.S. AFTER MARCH 31, 2013, COMMISSION TRANSFERS OF  
17 CHCSM FUNDS TO THE OFFICE OF INFORMATION TECHNOLOGY SHALL BE  
18 CALCULATED PURSUANT TO SUBPARAGRAPH (IX) OF THIS PARAGRAPH (a).

19 (VIII) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY,  
20 EFFECTIVE APRIL 1, 2013, THE CHCSM SHALL BE CAPPED AT FORTY  
21 MILLION DOLLARS, EXCLUSIVE OF AMOUNTS THAT MUST BE TRANSFERRED  
22 TO THE OFFICE OF INFORMATION TECHNOLOGY FOR THE CAPITAL  
23 INVESTMENT FUND AS SET FORTH IN SUBPARAGRAPH (IX) OF THIS  
24 PARAGRAPH (a). ANY INSUFFICIENCY OF THE CAPPED CHCSM FUND SHALL  
25 BE APPLIED TO REDUCE SUPPORT LEVELS ON A PRO-RATA BASIS.

26 (IX) COMMENCING JANUARY 1, 2014, ON AN ANNUAL BASIS, THE  
27 COMMISSION SHALL MAKE A DETERMINATION OF AREAS WITHIN THE STATE

1 THAT HAVE SUFFICIENT COMPETITION. FIFTY PERCENT OF THE REDUCTION  
2 IN THE COLORADO HIGH COST SUPPORT MECHANISM AS A RESULT OF  
3 NON-RURAL ILECS LOSING FUNDING IN AREAS OF SUFFICIENT  
4 COMPETITION SHALL SERVE TO REDUCE THE SIZE OF THE MECHANISM AND  
5 THE CUSTOMER ASSESSMENT FOR THE MECHANISM, AND THE OTHER FIFTY  
6 PERCENT SHALL BE TRANSFERRED TO THE OFFICE OF INFORMATION  
7 TECHNOLOGY ON A QUARTERLY BASIS FOR THE PURPOSE OF THE  
8 BROADBAND CAPITAL INVESTMENT FUND CREATED IN SECTION  
9 24-37.5-801, C.R.S. THE COMMISSION SHALL CONTINUE TO COLLECT  
10 ASSESSMENTS FOR THE COLORADO HIGH COST SUPPORT MECHANISM AND  
11 THE BROADBAND CAPITAL INVESTMENT FUND FOR UNSERVED AREAS UNTIL  
12 THE ELIMINATION OF BOTH FUNDS ON JANUARY 1, 2025. ANY FUNDS  
13 REMAINING IN THE COMMISSION'S HIGH COST SUPPORT MECHANISM  
14 ACCOUNT ON JANUARY 1, 2025, SHALL BE TRANSFERRED TO THE GENERAL  
15 FUND. THE DISTRIBUTION OF THE BROADBAND CAPITAL INVESTMENT FUND  
16 FOR UNSERVED AREAS SHALL BE ADMINISTERED SOLELY BY THE OFFICE OF  
17 INFORMATION TECHNOLOGY. NOTHING IN THIS SUBSECTION (2) SUBJECTS  
18 BROADBAND SERVICE PROVIDERS TO COMMISSION JURISDICTION.

19 (X) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EFFECTIVE  
20 APRIL 1, 2013, THE DRAW OF RURAL LOCAL EXCHANGE CARRIERS ON THE  
21 CHCSM IS CAPPED AT SEVEN MILLION DOLLARS ANNUALLY.

22 (XI) NO LATER THAN JANUARY 1, 2023, THE COMMISSION SHALL  
23 COMMENCE A STUDY TO PROVIDE RECOMMENDATIONS TO THE GENERAL  
24 ASSEMBLY REGARDING THE EXPIRATION OF THE COLORADO HIGH COST  
25 SUPPORT MECHANISM SCHEDULED TO OCCUR ON JANUARY 1, 2025. THE  
26 COMMISSION SHALL ANALYZE IN THE STUDY: THE ABILITY OF RURAL  
27 LOCAL EXCHANGE CARRIERS TO PROVIDE BASIC SERVICE AT REASONABLE



1 RATES WITHOUT HIGH COST FUND SUPPORT, TAKING INTO CONSIDERATION  
2 ALL REGULATED AND NONREGULATED SERVICE REVENUES AND COSTS OF  
3 RURAL LOCAL EXCHANGE CARRIERS; THE INCREASE IN RATES THAT  
4 CUSTOMERS IN RURAL AREAS WOULD FACE FOR LANDLINE BASIC SERVICE  
5 IF THE HIGH COST FUND IS ELIMINATED; THE STATE OF COMPETITION IN  
6 RURAL LOCAL EXCHANGE AREAS REGARDING THE PROVISION OF BASIC  
7 SERVICE OR ITS FUNCTIONAL EQUIVALENT AT REASONABLE RATES;  
8 WHETHER STATES OUTSIDE COLORADO HAVE ELIMINATED OR  
9 SUBSTANTIALLY REDUCED THEIR STATE HIGH COST FUNDS, AND THE  
10 EFFECTS OF SUCH STATES' ACTIONS ON RURAL PROVIDERS AND  
11 CUSTOMERS; AND WHETHER IN THE COMMISSION'S VIEW THE HIGH COST  
12 SUPPORT MECHANISM SHOULD BE EXTENDED BEYOND JANUARY 1, 2025,  
13 AND, IF SO, WHAT REFORMS SHOULD BE MADE TO THE MECHANISM TO  
14 DECREASE ASSESSMENTS AND IMPROVE THE EFFICIENCY OF THE  
15 MECHANISM. THE COMMISSION SHALL COMPLETE THE STUDY AND RELEASE  
16 IT TO THE PUBLIC AND THE GENERAL ASSEMBLY NO LATER THAN  
17 SEPTEMBER 30, 2023.

18 (XII) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY,  
19 EFFECTIVE JANUARY 1, 2025, THE COLORADO HIGH COST SUPPORT  
20 MECHANISM IS ELIMINATED.

21 (XIII) NO MONEYS FROM THE HIGH COST ADMINISTRATION FUND  
22 MAY BE TRANSFERRED TO THE GENERAL FUND NOR USED FOR ANY  
23 PURPOSE OTHER THAN THOSE DESCRIBED IN THIS SUBSECTION (2) OR  
24 SUBSECTION (3) OF THIS SECTION.

25 (3) ~~(a)~~ There is hereby created, in the state treasury, the Colorado  
26 high cost administration fund, referred to in this section as the "fund",  
27 which shall be used to reimburse the commission and its contractors for

1 reasonable expenses incurred in the administration of the high cost  
2 support mechanism as determined by rules of the commission. The  
3 GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE moneys in the  
4 fund that are to be used for the direct and indirect administrative costs  
5 incurred by the commission and its contractors. ~~shall be appropriated~~  
6 ~~annually by the general assembly.~~ At the end of ~~any~~ EACH fiscal year, all  
7 unexpended and unencumbered moneys in the fund ~~shall~~ remain in the  
8 fund and ~~shall~~ ARE not be credited or transferred to the general fund or  
9 any other fund. ~~Based upon the high cost support mechanism, the balance~~  
10 ~~remaining in the fund, and the amount appropriated annually by the~~  
11 ~~general assembly for use by the commission,~~ Each year, the commission  
12 shall determine the nondiscriminatory, competitively neutral assessment  
13 on all telecommunications service providers in Colorado that will be  
14 necessary to cover the cost of implementing and administering the high  
15 cost support mechanism, BASED ON THE HIGH COST SUPPORT MECHANISM,  
16 THE BALANCE REMAINING IN THE FUND, AND THE AMOUNT APPROPRIATED  
17 ANNUALLY BY THE GENERAL ASSEMBLY FOR USE BY THE COMMISSION. THE  
18 PROVIDERS SHALL TRANSMIT only the moneys from ~~such~~ THE assessment  
19 for administering the high cost support mechanism ~~shall be transmitted~~  
20 to the state treasurer, who shall credit the ~~same~~ MONEYS to the fund. All  
21 interest derived from the deposit and investment of MONEYS IN the fund  
22 ~~shall~~ MUST remain in the fund and ~~shall~~ not revert to the general fund.

23 (b) ~~Repealed.~~

24 (c) ~~Notwithstanding any provision of paragraph (a) of this~~  
25 ~~subsection (3) to the contrary, on July 31, 2009, the state treasurer shall~~  
26 ~~deduct from the fund an amount equal to the amount transferred to the~~  
27 ~~fund pursuant to Senate Bill 09-272, enacted in 2009, and transfer such~~

1 ~~amount to the general fund.~~

2 (4) CONTRIBUTIONS TO THE COLORADO HIGH COST SUPPORT  
3 MECHANISM MUST BE CALCULATED ON THE BASIS OF CUSTOMER  
4 INTRASTATE REVENUES UNTIL THE FCC ALTERS THE FEDERAL UNIVERSAL  
5 SERVICE CONTRIBUTION METHODOLOGY, AT WHICH POINT THE  
6 COMMISSION SHALL ADJUST ITS CONTRIBUTION METHODOLOGY TO MIRROR  
7 THE FCC'S METHODOLOGY ON AN INTRASTATE BASIS.

8 **SECTION 18.** In Colorado Revised Statutes, **add** 40-15-209 as  
9 follows:

10 **40-15-209. Violations.** VIOLATIONS OF THIS PART 2 BY A  
11 TELECOMMUNICATIONS SERVICE PROVIDER ARE SUBJECT TO ENFORCEMENT  
12 AND PENALTIES AS PROVIDED IN ARTICLE 7 OF THIS TITLE.

13 **SECTION 19.** In Colorado Revised Statutes, **amend** 40-15-301  
14 as follows:

15 **40-15-301. Regulation by the commission.** (1) The commission  
16 shall regulate ~~the terms and conditions, including rates and charges, under~~  
17 ~~which~~ telecommunications service pursuant to this part 3 ~~is offered and~~  
18 ~~provided to customers~~ exclusively in accordance with the provisions of  
19 sections 40-4-101 (1), 40-4-111, AND 40-4-112 ~~and 40-5-105~~ and TO THE  
20 EXTENT APPROPRIATE, articles 2, 3, 6, and 7 of this title, unless otherwise  
21 specified in this article.

22 (2) The following telecommunications products, services, and  
23 providers are declared to be initially subject to regulation pursuant to this  
24 part 3 and subject to potential deregulation under section 40-15-305:

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

27 (b) ~~Premium services except as provided in section 40-15-401 (1)~~

- 1 ~~(f), (1) (g), (1) (h), and (1) (i);~~
- 2 (c) ~~InterLATA toll;~~
- 3 (d) ~~IntraLATA toll, subject to the provisions of section 40-15-306;~~
- 4 (e) Switched access, subject to ~~the provisions of section~~
- 5 ~~40-15-307~~ 40-15-309;
- 6 (f) ~~Private line service with a capacity of less than twenty-four~~
- 7 ~~voice grade circuits;~~
- 8 (g) Nonoptional operator services;
- 9 (h) WHITE PAGE DIRECTORY LISTING;
- 10 (i) LOCAL EXCHANGE LISTED TELEPHONE NUMBER SERVICE; AND
- 11 (j) OPERATOR SERVICES NECESSARY FOR THE PROVISION OF BASIC
- 12 LOCAL EXCHANGE SERVICE.

13 **SECTION 20.** In Colorado Revised Statutes, 40-15-302, **amend**

14 (1) (a), (1) (b) (I) introductory portion, (1) (b) (II), and (2); and **repeal** (5)

15 as follows:

16 **40-15-302. Manner of regulation - rules.** (1) (a) The

17 commission shall promulgate rules as may be appropriate to regulate

18 services and products provided pursuant to this part 3. In promulgating

19 such rules, the commission shall consider ~~such~~ alternatives to traditional

20 rate of return regulations, ~~as~~ INCLUDING flexible pricing, detariffing, and

21 other such manner and methods of regulation as ~~are~~ deemed consistent

22 with the general assembly's expression of intent ~~pursuant to~~ UNDER

23 section 40-15-101. If a provider applies for and receives commission

24 approval of an alternative form of regulation, or if a provider is a rural

25 ~~telecommunications provider~~ LOCAL EXCHANGE CARRIER subject to

26 simplified regulatory treatment under section 40-15-203.5 or 40-15-503

27 ~~(2)-(d)~~ (1), the commission shall not consider the provider's overall rate

1 of return or overall revenue requirements when determining the just and  
2 reasonable rate for a particular product or service. A local exchange  
3 provider that does not elect an alternative form of regulation and that is  
4 subject to ~~rate of return~~ COMMISSION regulation shall furnish such rate of  
5 return information as requested by the commission.

6 (b) (I) For a rural ~~telecommunications provider~~ LOCAL EXCHANGE  
7 CARRIER subject to simplified regulatory treatment under section  
8 40-15-203.5 or 40-15-503 ~~(2) (d)~~ (1), THE COMMISSION SHALL ESTABLISH  
9 price ceilings ~~shall be established~~ for all products and services regulated  
10 under this part 3 as follows:

11 (II) This paragraph (b) ~~shall~~ DOES NOT ~~be construed to~~ preclude a  
12 rural ~~telecommunications provider~~ LOCAL EXCHANGE CARRIER from  
13 electing traditional rate-of-return regulation or requesting price regulation  
14 or another alternative form of regulation under part 5 of this article; and  
15 the ~~fact of~~ COMMISSION SHALL NOT CONSIDER such election or request  
16 ~~shall not be considered~~ in connection with a proceeding to adjust prices  
17 for products or services offered under any alternative form of regulation.

18 (2) The commission shall promulgate rules ~~and regulations~~ for the  
19 certification of providers of emerging competitive telecommunications  
20 services ~~but nothing in this part 3 shall require the commission to~~  
21 ~~certify providers of telecommunications service regulated in this part~~  
22 ~~3 ON A STATEWIDE BASIS UPON REQUEST BY NOTICE LETTER.~~

23 (5) ~~Consistent with the provisions of section 40-15-301 (1), rates~~  
24 ~~for nonoptional operator services shall allow the provider of such services~~  
25 ~~the opportunity to earn a just and reasonable return on the associated used~~  
26 ~~and useful investment, including but not limited to equipment costs~~  
27 ~~incurred to originate such services. Such rates shall be set at or below a~~

1 single statewide benchmark rate as determined by the commission that is  
2 applicable to all providers, unless the commission approves a higher rate.  
3 ~~The statewide benchmark rate shall apply to all nonoptional operator~~  
4 ~~services regardless of whether such services are provided in connection~~  
5 ~~with intraLATA or interLATA telecommunications service. If the~~  
6 ~~commission approves a rate higher than the benchmark rate, and the~~  
7 ~~commission determines that disclosure of the rate to customers is in the~~  
8 ~~public interest, the commission may require the nonoptional operator~~  
9 ~~services provider to orally disclose, to the person responsible for payment~~  
10 ~~of the telephone call, the total charges for the call and that such charges~~  
11 ~~are higher than the benchmark rate. The nonoptional operator services~~  
12 ~~provider shall make such disclosure at no charge to the caller and before~~  
13 ~~the call is connected, allowing the caller to disconnect before incurring~~  
14 ~~any charges. If the commission finds, after notice and opportunity for a~~  
15 ~~hearing, that a nonoptional operator services provider has violated this~~  
16 ~~subsection (5), the commission may, in addition to such other~~  
17 ~~enforcement powers as may be authorized in this title, order any regulated~~  
18 ~~telecommunications service provider to block access to the nonoptional~~  
19 ~~operator services provider for all intrastate operator-handled calls. A~~  
20 ~~regulated telecommunications provider that blocks the access of a~~  
21 ~~nonoptional operator services provider in compliance with an order of the~~  
22 ~~commission and incurs attorney fees or costs to defend such action shall~~  
23 ~~be entitled to recover its costs and attorney fees in each such proceeding.~~  
24 ~~The commission shall promulgate rules necessary to implement this~~  
25 ~~subsection (5).~~

26 **SECTION 21.** In Colorado Revised Statutes, 40-15-302.5,  
27 **amend** (1) introductory portion, (1) (a), (1) (b), (1) (c), (2), and (3) as

1 follows:

2 **40-15-302.5. Providers of interexchange toll services -**  
3 **registration required.** (1) Toll ~~resellers~~ PROVIDERS shall register with  
4 the commission in a form satisfactory to the commission. Such  
5 registration ~~shall include~~ INCLUDES, at a minimum, the following  
6 information updated within fifteen days after any change:

7 (a) The toll ~~reseller's~~ PROVIDER'S name and complete address;

8 (b) All names under which the toll ~~reseller~~ PROVIDER does  
9 business;

10 (c) All names and identification numbers under which the toll  
11 ~~reseller~~ PROVIDER has registered with the Colorado secretary of state or  
12 the Colorado department of revenue;

13 (2) Toll ~~resellers who~~ PROVIDERS THAT register in accordance with  
14 subsection (1) of this section ~~shall be~~ ARE exempt from regulation by the  
15 commission except as otherwise provided in this section.

16 (3) For the purpose of enforcing section 40-15-112, the  
17 commission may exercise any of the powers conferred under articles 1 to  
18 7 of this title against a toll ~~reseller~~ PROVIDER and, in cases of complaints  
19 filed under section 40-6-108, may order a toll ~~reseller~~ PROVIDER to make  
20 due reparations to the complaining party.

21 **SECTION 22.** In Colorado Revised Statutes, **repeal** 40-15-303  
22 as follows:

23 **40-15-303. Transfer of certificate.** ~~Any certificate of public~~  
24 ~~convenience and necessity issued pursuant to this part 3 may be sold,~~  
25 ~~assigned, leased, encumbered, or transferred as other property only upon~~  
26 ~~authorization by the commission.~~

27 **SECTION 23.** In Colorado Revised Statutes, **amend** 40-15-305

1 as follows:

2 **40-15-305. Time period for consideration of deregulation of**  
3 **emerging competitive telecommunications service.**

4 (1) ~~(a)~~ Notwithstanding any other provision of this title, ~~upon its own~~  
5 ~~motion or upon application by any person,~~ the commission shall  
6 deregulate, pursuant to part 4 of this article, specific telecommunications  
7 services subject to this part 3 upon a finding that there is effective  
8 SUFFICIENT competition in the relevant market for such service ~~and~~ OR  
9 that such deregulation will promote the public interest and the provision  
10 of adequate and reliable service at just and reasonable rates.

11 ~~(b)~~ ~~In determining whether effective competition for a specific~~  
12 ~~telecommunications service exists, the commission shall make findings,~~  
13 ~~after notice and opportunity for hearing, and shall issue an order based~~  
14 ~~upon consideration of the following factors as the commission deems~~  
15 ~~applicable in particular cases:~~

16 ~~(I)~~ ~~The extent of economic, technological, or other barriers to~~  
17 ~~market entry and exit;~~

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

19 ~~(III)~~ ~~The ability of consumers to obtain the service from other~~  
20 ~~providers at reasonable and comparable rates, on comparable terms, and~~  
21 ~~under comparable conditions;~~

22 ~~(IV)~~ ~~The ability of any provider of such telecommunications~~  
23 ~~service to affect prices or deter competition;~~

24 ~~(V)~~ ~~Such other relevant and necessary factors, including but not~~  
25 ~~limited to relevant geographic areas, as the commission deems~~  
26 ~~appropriate.~~

27 ~~(c)~~ ~~The commission shall approve or deny any such application~~



1 for deregulation within one hundred eighty days after the filing of the  
2 application; except that the commission may, by order, defer the period  
3 within which it must act for one additional period of ninety days upon a  
4 finding that the proceeding cannot be completed within one hundred  
5 eighty days and that the additional time period is necessary for the  
6 commission to adequately and completely fulfill its duty under this  
7 subsection (1). If the commission has not acted on any such application  
8 within the appropriate time period permitted, the application shall be  
9 deemed granted.

10 (d) In determining geographic areas under paragraph (b) of this  
11 subsection (1), the commission shall not be unduly restrictive.

12 (2) Any telecommunications service or product not defined in part  
13 1 of this article or not already classified pursuant to parts 2 to 4 of this  
14 article shall be IS classified as an emerging competitive  
15 telecommunications A DEREGULATED service under this part 3 4 OF THIS  
16 ARTICLE.

17 **SECTION 24.** In Colorado Revised Statutes, **repeal** 40-15-306  
18 as follows:

19 **40-15-306. IntraLATA interexchange services.** IntraLATA  
20 interexchange telecommunications services shall be regulated in  
21 accordance with the provisions of this part 3; except that such services  
22 shall not automatically be deregulated as part 4 services pursuant to  
23 section 40-15-305 except upon application of the provider of such  
24 services. No interexchange provider shall market intraLATA  
25 interexchange telecommunications services without obtaining prior  
26 approval of the commission. An interexchange provider shall not be  
27 required to compensate a local exchange provider for incidental

1 ~~telecommunications services that occur after July 2, 1987.~~

2           **SECTION 25.** In Colorado Revised Statutes, **repeal** 40-15-307  
3 as follows:

4           **40-15-307. Switched access.** ~~Switched access shall not be~~  
5 ~~deregulated pursuant to section 40-15-305 prior to the enactment of~~  
6 ~~enabling legislation authorizing such deregulation.~~

7           **SECTION 26.** In Colorado Revised Statutes, **add** 40-15-309 as  
8 follows:

9           **40-15-309. Nondiscriminatory access charges.** (1) A CARRIER  
10 MAY ELECT NOT TO CHARGE FOR INTRASTATE ACCESS, IN WHICH CASE THE  
11 COMMISSION HAS NO AUTHORITY OVER THE CARRIER'S ACCESS RATES.

12           (2) (a) A LOCAL EXCHANGE PROVIDER MAY ENTER INTO  
13 CONTRACTS FOR INTRASTATE SWITCHED ACCESS SERVICE IF THE RATES,  
14 TERMS, AND CONDITIONS IN THE CONTRACTS ARE MADE AVAILABLE ON A  
15 NONDISCRIMINATORY BASIS TO SIMILARLY SITUATED WHOLESALE  
16 CUSTOMERS OF THE LOCAL EXCHANGE PROVIDER'S SWITCHED ACCESS  
17 SERVICE.

18           (b) LOCAL EXCHANGE PROVIDERS SHALL FILE THEIR CONTRACTS  
19 FOR SWITCHED ACCESS SERVICE WITH THE COMMISSION. EXCEPT AS  
20 OTHERWISE PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (2),  
21 CONTRACTS FOR SWITCHED ACCESS SERVICE ARE OPEN TO REVIEW BY  
22 OTHER WHOLESALE CUSTOMERS OF THE LOCAL EXCHANGE PROVIDER'S  
23 ACCESS SERVICE TO ASSURE COMPLIANCE WITH THIS SECTION.

24           (c) A LOCAL EXCHANGE PROVIDER MAY FILE ONE OR MORE OF ITS  
25 CONTRACTS FOR SWITCHED ACCESS SERVICE, OR ANY PART OF A  
26 CONTRACT, ON A CONFIDENTIAL BASIS AND MAY SPECIFY THAT:

27           (I) AN ENTITY DESIRING TO REVIEW THE CONTRACT MUST FIRST

1 EXECUTE A NONDISCLOSURE AGREEMENT FOR THE PROTECTION OF  
2 PROPRIETARY BUSINESS INFORMATION AND TRADE SECRETS; OR

3 (II) THE ENTITY MAY REVIEW ONLY THE PORTIONS OF THE  
4 CONTRACT THAT ARE NOT DESIGNATED AS CONFIDENTIAL.

5 (3) LOCAL EXCHANGE PROVIDERS THAT ENTER INTO SWITCHED  
6 ACCESS REVENUE SHARING ARRANGEMENTS WITH THIRD PARTIES TO  
7 STIMULATE OR DRIVE SWITCHED ACCESS TRAFFIC ONTO THEIR NETWORKS  
8 SHALL NOT CHARGE WHOLESALE CUSTOMERS THEIR INTRASTATE  
9 SWITCHED ACCESS RATES. THE COMMISSION SHALL DETERMINE THE RATES  
10 FOR SUCH SERVICES, WHICH RATES MUST BE FAIR, JUST, AND REASONABLE.

11 **SECTION 27.** In Colorado Revised Statutes, 40-15-401, **amend**  
12 (1) introductory portion, (1) (b), (1) (c), (1) (d), (1) (i), and (1) (k); and  
13 **add** (1) (q), (1) (r), (1) (s), (1) (t), and (2) as follows:

14 **40-15-401. Services, products, and providers exempt from**  
15 **regulation.** (1) The following products, services, and providers are  
16 exempt from regulation under this article ~~or under~~ AND the "Public  
17 Utilities Law" of the state of Colorado:

18 (b) ~~Cellular telecommunications~~ INTEREXCHANGE  
19 TELECOMMUNICATIONS services;

20 (c) COMMERCIAL mobile radio ~~service~~ SERVICES;

21 (d) ~~Radio paging service;~~ IP-ENABLED SERVICES, INCLUDING VOIP  
22 SERVICE, WHETHER FIXED OR NOMADIC. THIS PARAGRAPH (d) DOES NOT:

23 (I) REQUIRE OR PROHIBIT ASSESSMENT OF ENHANCED 911, RELAY  
24 ACCESS SERVICE, COLORADO HIGH COST SUPPORT MECHANISM,  
25 TELECOMMUNICATIONS RELAY SERVICE, OR UNIVERSAL SERVICE FUND  
26 FEES ON VOICE OVER INTERNET PROTOCOL SERVICE;

27 (II) AFFECT ANY WHOLESALE TARIFF;

1 (III) AFFECT ANY ENTITY'S OBLIGATIONS UNDER SECTIONS 251  
2 AND 252 OF THE FEDERAL "COMMUNICATIONS ACT OF 1934", 47 U.S.C.  
3 SECS. 251 AND 252, OR A RIGHT GRANTED TO AN ENTITY BY THOSE  
4 SECTIONS;

5 (IV) GRANT, MODIFY, OR AFFECT THE AUTHORITY OF THE  
6 COMMISSION TO IMPLEMENT, CARRY OUT, OR ENFORCE THE RIGHTS OR  
7 OBLIGATIONS PROVIDED BY 47 U.S.C. SECS. 251 AND 252 OR OF AN  
8 APPLICABLE WHOLESALE TARIFF THROUGH ARBITRATION PROCEEDINGS OR  
9 OTHER AVAILABLE MECHANISMS AND PROCEDURES; OR

10 (V) AFFECT OR MODIFY ANY OBLIGATIONS FOR THE PROVISION OF  
11 VIDEO OR CABLE SERVICE BY ANY PARTY UNDER APPLICABLE LAW.

12 (i) ~~Informational~~ INFORMATION services;

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

15 (q) BROADBAND SERVICES AND NETWORKS;

16 (r) BUSINESS BASIC LOCAL EXCHANGE SERVICES;

17 (s) PREMIUM SERVICES;

18 (t) PRIVATE LINE SERVICE; AND

19 (u) TELEPHONE OR TELECOMMUNICATIONS SERVICE FROM INMATES  
20 AT PENAL INSTITUTIONS.

21 (2) ANY TELECOMMUNICATIONS SERVICE OR PRODUCT NOT  
22 DEFINED IN PART 1 OF THIS ARTICLE OR NOT ALREADY CLASSIFIED  
23 PURSUANT TO PART 2 OR 3 OF THIS ARTICLE IS CLASSIFIED AS A  
24 DEREGULATED TELECOMMUNICATIONS SERVICE UNDER THIS PART 4.

25 **SECTION 28.** In Colorado Revised Statutes, **repeal** 40-15-403  
26 as follows:

27 **40-15-403. General assembly may reregulate. Any**

1 ~~telecommunications service or product deregulated pursuant to this part~~  
2 ~~4 may be reregulated by action of the general assembly.~~

3 **SECTION 29.** In Colorado Revised Statutes, **amend** 40-15-404  
4 as follows:

5 **40-15-404. Dispute - interconnection or access.** THE  
6 COMMISSION HAS AUTHORITY OVER WHOLESALE RATES, SERVICES, AND  
7 AGREEMENTS AMONG PROVIDERS, REGARDLESS OF THE TECHNOLOGY  
8 EMPLOYED BY THE PROVIDERS, UNLESS SUCH AUTHORITY IS INCONSISTENT  
9 WITH FEDERAL LAW. In the event of a dispute between providers of  
10 telecommunications services or products deregulated pursuant to this part  
11 4 concerning the terms, conditions, quality, or compensation for the  
12 interconnection or access of lines or facilities between providers, any  
13 such provider may apply to the commission for resolution of such dispute.  
14 After notice and hearing, the commission shall enter its decision resolving  
15 any such interconnection or access dispute, CONSISTENT WITH 47 U.S.C.  
16 SECS. 251 AND 252 AND OTHER APPLICABLE FEDERAL LAW.

17 **SECTION 30.** In Colorado Revised Statutes, 40-15-501, **amend**  
18 (3) (c); and **repeal** (2) as follows:

19 **40-15-501. Legislative declaration - purpose and scope of part.**

20 (2) ~~The general assembly further finds, determines, and declares that:~~

21 ~~(a) Wise public policy relating to the telecommunications industry~~  
22 ~~and the other crucial services it provides is in the interest of Colorado and~~  
23 ~~its citizens;~~

24 ~~(b) Sound and well-informed decisions need to be made on a~~  
25 ~~continuing basis to ensure that the benefits of existing and new~~  
26 ~~telecommunications services continue to be available to the greatest~~  
27 ~~number of Colorado citizens;~~

1           (c) ~~The involvement of telecommunications providers and others~~  
2 ~~with experience and expertise in the area of telecommunications is~~  
3 ~~essential to keep legislators informed of developing technology and~~  
4 ~~evolving markets, thus to avoid costly errors and enhance the efficiency~~  
5 ~~of the state's growing telecommunications network; and~~

6           (d) ~~The rural nature of Colorado requires that special rules and~~  
7 ~~support mechanisms be adopted to achieve the goal of ensuring that~~  
8 ~~universal basic local exchange service be available to all residents of the~~  
9 ~~state at reasonable rates. Rules adopted by the commission under this part~~  
10 ~~5 shall be designed to achieve this goal.~~

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

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

16           **SECTION 31.** In Colorado Revised Statutes, 40-15-502, **amend**  
17 (1), (3), (5) (a), and (6); **repeal** (2) and (4); and **add** (2.3), (2.5), (4.3),  
18 (4.5), and (8) as follows:

19           **40-15-502. Expressions of state policy. (1) Competitive local**  
20 **exchange market.** Local exchange telecommunications markets ~~shall be~~  
21 ARE open to competition, under conditions determined by the commission  
22 by rule pursuant to this part 5, on or before July 1, 1996. IT IS THE POLICY  
23 OF THE STATE OF COLORADO TO FOSTER AND ENCOURAGE COMPETITION  
24 IN THE MARKET FOR LOCAL EXCHANGE SERVICES AND TO ENABLE ALL  
25 CONSUMERS TO BENEFIT FROM SUCH COMPETITION. IN IMPLEMENTING THIS  
26 POLICY, THE COMMISSION SHALL ACT CONSISTENTLY WITH 47 U.S.C. SECS.  
27 251 AND 252.

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

10           (2.3) **Sufficient competition.** NO LATER THAN JULY 1, 2012, THE  
11 COMMISSION SHALL OPEN A RULE-MAKING DOCKET AND CONDUCT AND  
12 COMPLETE AN INVESTIGATION TO DETERMINE THE GEOGRAPHIC AREAS  
13 WITHIN THE STATE THAT HAVE SUFFICIENT COMPETITION. THE  
14 COMMISSION SHALL CONCLUDE THE PROCEEDING BY ISSUING A FINAL  
15 DECISION WITHIN ONE HUNDRED EIGHTY DAYS AFTER ITS COMMENCEMENT.  
16 IN ALL AREAS NOT SERVED BY RURAL EXCHANGE CARRIERS, THE  
17 COMMISSION SHALL PRESUME THAT SUFFICIENT COMPETITION EXISTS, AND  
18 THE BURDEN OF GOING FORWARD AND THE BURDEN OF PROOF IS ON  
19 INTERVENING PARTIES CLAIMING THAT SUFFICIENT COMPETITION DOES NOT  
20 EXIST. NOTWITHSTANDING ANY PROVISION OR DEFINITION TO THE  
21 CONTRARY, THE COMMISSION MAY OPEN A DOCKET ON OR AFTER JANUARY  
22 1, 2014, AND DETERMINE THAT SUFFICIENT COMPETITION EXISTS IN  
23 GEOGRAPHIC AREAS WITH FEWER THAN FIVE PROVIDERS OR CARRIERS.

24           (2.5) **Rate deregulation where sufficient competition exists.**  
25 EFFECTIVE JULY 1, 2012, RATES FOR RESIDENTIAL BASIC SERVICE OFFERED  
26 BY NON-RURAL LOCAL EXCHANGE CARRIERS ARE DEREGULATED FOR ALL  
27 EXCHANGES WHERE SUFFICIENT COMPETITION EXISTS.

1           (3) **Universal basic service - affordability of basic service.**

2           ~~(a) The commission shall require the furtherance of universal basic~~  
3           ~~service, toward the ultimate goal that basic service be available and~~  
4           ~~affordable to all citizens of the state of Colorado. The general assembly~~  
5           ~~acknowledges the use of low-income telephone assistance programs,~~  
6           ~~including but not limited to "life-line", and "link-up", and~~  
7           ~~telecommunications relay services for disabled telephone users to further~~  
8           ~~the goal of universal service. NOTWITHSTANDING ANY PROVISION TO THE~~  
9           ~~CONTRARY, the commission shall have HAS the authority to regulate~~  
10           ~~providers of telecommunications services to the extent necessary to assure~~  
11           ~~that universal basic service is provided "LIFE-LINE", LITAP, AND~~  
12           ~~TELECOMMUNICATIONS RELAY SERVICES FOR DISABLED TELEPHONE USERS~~  
13           ~~REMAIN AVAILABLE to all consumers IN AREAS OF INSUFFICIENT~~  
14           ~~COMPETITION AND SUFFICIENT COMPETITION in the state. at fair, just, and~~  
15           ~~reasonable rates.~~

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

23           ~~(I.5) In determining the appropriate maximum price for residential~~  
24           ~~basic service for each regulated provider, the commission:~~

25           ~~(A) Shall consider the changes since May 24, 1995, in the costs~~  
26           ~~of providing such service;~~

27           ~~(B) Shall consider the changes since May 24, 1995, in the~~



1 nationwide average price for comparable service;

2 ~~(C) Shall consider flexible-pricing tariff options; and~~

3 ~~(D) May, for any affected provider, consider the net revenues~~  
4 ~~derived from other services regulated under part 2 or 3 of this article, with~~  
5 ~~the exception of switched access service, notwithstanding any provision~~  
6 ~~of section 40-15-201 to the contrary. Nothing in this sub-subparagraph~~  
7 ~~(D) shall permit the commission to limit the affected provider's overall~~  
8 ~~rate of return or overall revenues when determining the appropriate~~  
9 ~~maximum price for residential basic service for that provider.~~

10 ~~(H) The commission may delay or deny a price increase for~~  
11 ~~residential basic service if a provider is in substantial violation of the~~  
12 ~~commission's rules governing quality of service or held service orders.~~

13 ~~(HH) This section shall not be construed to prohibit the~~  
14 ~~commission from granting an increase in residential basic local exchange~~  
15 ~~service rates for local exchange carriers under rate-of-return regulation if~~  
16 ~~such increase was approved before May 24, 1995, or if, and to the extent~~  
17 ~~that, such increase is necessary to recover a provider's costs associated~~  
18 ~~with investments for network upgrades made for the purpose of~~  
19 ~~provisioning residential basic local exchange service if such investments~~  
20 ~~are approved or required by the commission and not previously included~~  
21 ~~in the calculation of residential basic local exchange service rates.~~

22 ~~(IV)(A) For service provided to residential customers outside the~~  
23 ~~base rate area of a local exchange provider, the commission shall limit~~  
24 ~~rate increases to maintain rates at affordable levels and shall employ~~  
25 ~~universal service funding mechanisms as contemplated in subsection (5)~~  
26 ~~of this section to compensate for the high cost of serving such customers~~  
27 ~~in preference to allowing rate increases.~~

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

6           ~~(V) If and when additional elements are included in the definition~~  
7 ~~of basic service as a result of review by the commission under subsection~~  
8 ~~(2) of this section, prices may increase as is reasonably necessary to cover~~  
9 ~~the cost and account for the inclusion of such additional elements.~~

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

17           (4.3) **Complaints and service quality.** THE COMMISSION MAY  
18 ADJUDICATE CUSTOMER-FILED COMPLAINTS AND REGULATE THE SERVICE  
19 QUALITY OF A BASIC LOCAL EXCHANGE SERVICE CARRIER ONLY TO THE  
20 EXTENT THE CARRIER RECEIVES HIGH COST SUPPORT MECHANISM FUNDING  
21 OR THE CARRIER PROVIDES SERVICE IN A GEOGRAPHIC AREA THAT DOES  
22 NOT HAVE SUFFICIENT COMPETITION.

23           (4.5) **Switched access rates.** NO LATER THAN JULY 1, 2012, THE  
24 COMMISSION SHALL OPEN A RULE-MAKING DOCKET TO PHASE IN  
25 REDUCTIONS TO EACH LOCAL EXCHANGE CARRIER'S INTRASTATE  
26 ORIGINATING SWITCHED ACCESS RATES TO ELIMINATE THE DIFFERENCE  
27 BETWEEN ITS EXISTING INTRASTATE ORIGINATING SWITCHED ACCESS

1 RATES AND ITS EXISTING INTERSTATE ORIGINATING SWITCHED ACCESS  
2 RATES, BY NO LATER THAN JANUARY 1, 2014, TO THE EXTENT SUCH  
3 REDUCTIONS ARE NOT INCONSISTENT WITH FEDERAL LAW. NON-RURAL  
4 LOCAL EXCHANGE PROVIDERS SHALL NOT BE ALLOWED RECOVERY FOR  
5 LOST REVENUES AS A RESULT OF SUCH ACCESS RATE REDUCTIONS  
6 THROUGH THE HIGH COST SUPPORT MECHANISM. FOR RURAL LOCAL  
7 EXCHANGE CARRIERS, THE COMMISSION SHALL INCLUDE REVENUES LOST  
8 TO SWITCHED ACCESS RATE UNIFICATION IN DETERMINING ELIGIBILITY FOR  
9 SUPPORT AND SUPPORT LEVELS FROM THE COLORADO HIGH COST SUPPORT  
10 MECHANISM.

11 (5) **Universal service support mechanisms.** (a) In order to  
12 accomplish the goals of universal basic service, ~~universal access to~~  
13 ~~advanced service, and any revision of the definition of basic service under~~  
14 ~~subsection (2) of this section,~~ the commission shall ~~create a system of~~  
15 ~~support mechanisms to assist in~~ ENCOURAGE the provision of such  
16 services in high-cost areas ~~These~~ WITH INSUFFICIENT COMPETITION. THE  
17 COMMISSION SHALL FUND ANY support mechanisms ~~shall be funded~~  
18 ESTABLISHED FOR THIS PURPOSE equitably and on a nondiscriminatory,  
19 competitively neutral basis through assessments, which may include a rate  
20 element, on all telecommunications service providers in Colorado and  
21 ~~shall be distributed~~ DISTRIBUTE FUNDS FROM THE SUPPORT MECHANISM  
22 equitably and on a nondiscriminatory, competitively neutral basis. For  
23 purposes of administering such support mechanisms, the commission  
24 shall divide the state into reasonably compact, competitively neutral  
25 geographic support areas IN AREAS OF INSUFFICIENT COMPETITION. A  
26 provider's eligibility to receive support under the support mechanisms  
27 ~~shall be~~ IS conditioned upon the provider's offering basic service

1 throughout an entire support area. The commission shall review the costs  
2 of basic service and shall administer such support mechanisms.

3 (6) **Provider of last resort - duty to follow evolving definition**  
4 **of basic service.** ~~(a) In all relevant geographic areas of the state as~~  
5 ~~defined by the commission~~ IN WHICH SUFFICIENT COMPETITION DOES NOT  
6 EXIST OR AN ILEC RECEIVES STATE OR FEDERAL UNIVERSAL SERVICE  
7 SUPPORT, the commission shall designate at least one provider as the  
8 provider of last resort and adopt procedures for changing or terminating  
9 such designations. A provider of last resort designation carries the  
10 responsibility to offer basic local exchange service to all consumers who  
11 request it, SUBJECT TO REASONABLE CREDITWORTHINESS REQUIREMENTS.  
12 IN EXCHANGE AREAS WHERE THERE IS SUFFICIENT COMPETITION AND NO  
13 ILECS RECEIVE STATE OR FEDERAL UNIVERSAL SERVICE SUPPORT, THE  
14 COMMISSION SHALL, UPON RECEIPT OF A NOTICE LETTER, RESCIND A  
15 CARRIER'S PRIOR DESIGNATION AS A PROVIDER OF LAST RESORT.

16 ~~(b) A person holding a certificate of public convenience and~~  
17 ~~necessity to provide basic service shall be subject to the evolving~~  
18 ~~definition of basic service developed by the commission under subsection~~  
19 ~~(2) of this section and the system of financial support for universal service~~  
20 ~~established by the commission under subsection (5) of this section.~~

21 (8) **Emergency 911 service.** NOTWITHSTANDING ANY OTHER  
22 PROVISION OF THIS ARTICLE, THE COMMISSION RETAINS AUTHORITY TO  
23 REGULATE THE PRICE AND SERVICE QUALITY OF EMERGENCY 911 SERVICE  
24 PROVIDED BY TELECOMMUNICATIONS SERVICE PROVIDERS SUBJECT TO  
25 COMMISSION JURISDICTION.

26 **SECTION 32.** In Colorado Revised Statutes, **amend** 40-15-503  
27 as follows:

1           **40-15-503. Opening of competitive local exchange market -**  
2 **process of negotiation and rule-making - issues to be considered by**  
3 **commission.** ~~(1) Commencing on or before May 24, 1995, and~~  
4 ~~concluding on or before January 1, 1996, members of the working group~~  
5 ~~identified in section 40-15-504 shall meet and attempt to reach consensus~~  
6 ~~on proposed rules to be submitted to the commission for consideration~~  
7 ~~and adoption as appropriate to implement section 40-15-502 (1).~~

8           ~~(2)(a) On or before January 1, 1996, the commission shall initiate~~  
9 ~~rule-making proceedings to implement section 40-15-502 (1). Rules~~  
10 ~~adopted in such proceedings shall become effective on or before July 1,~~  
11 ~~1996. The commission shall grant substantial deference to the proposals~~  
12 ~~submitted by the working group under subsection (1) of this section in~~  
13 ~~regard to issues on which the working group reports it has reached~~  
14 ~~consensus. Said rules shall be designed to foster and encourage the~~  
15 ~~emergence of a competitive telecommunications marketplace and may~~  
16 ~~include more active regulation of one provider than another or the~~  
17 ~~imposition of geographic limits or other conditions on the authority~~  
18 ~~granted to a provider. In addition, in adopting such rules, the commission~~  
19 ~~shall consider the differences between the economic conditions of rural~~  
20 ~~and urban areas.~~

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

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

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

1           ~~(III) Cost-based, open network architecture;~~  
2           ~~(IV) Terms and conditions for resale of services that enhance~~  
3 ~~competition;~~  
4           ~~(V) Appropriate means of assessing, collecting, and distributing~~  
5 ~~contributions to the Colorado high cost fund created in section 40-15-208~~  
6 ~~and any other financial support mechanisms adopted by the commission~~  
7 ~~under section 40-15-502 (4); and~~  
8           ~~(VI) Access to emergency 911 service.~~  
9           ~~(c) (I) The commission shall consider changing to forms of price~~  
10 ~~regulation other than rate-of-return regulation for any telecommunications~~  
11 ~~provider that provides services regulated under part 2 or 3 of this article~~  
12 ~~and shall consider the conditions under which such a change may take~~  
13 ~~place to ensure that telecommunications services continue to be available~~  
14 ~~to all consumers in the state at fair, just, and reasonable rates. This~~  
15 ~~paragraph (c) shall not be construed to limit the manner and methods of~~  
16 ~~regulation available under section 40-15-302.~~  
17           ~~(H) As used in this paragraph (c), "price regulation" means a form~~  
18 ~~of regulation that may contain, without limitation, any of the following~~  
19 ~~elements:~~  
20           ~~(A) Regulation of the price and quality of services;~~  
21           ~~(B) Price floors and price ceilings;~~  
22           ~~(C) Flexibility in pricing between price floors and price ceilings;~~  
23           ~~(D) Modified tariff requirements;~~  
24           ~~(E) Incentives for increased efficiency, productivity, and quality~~  
25 ~~of service.~~  
26           ~~(d) (1) The commission shall adopt rules providing for simplified~~  
27 ~~regulatory treatment for rural telecommunications providers as defined in~~

1 ~~section 40-15-102 (24.5)~~ LOCAL EXCHANGE CARRIERS. Such simplified  
2 treatment may include ~~but shall not be limited to~~, optional methods of  
3 regulatory treatment that reduce regulatory requirements, reduce the  
4 financial burden of regulation, and allow pricing flexibility. Such  
5 simplified treatment may also allow extensions of time for the  
6 implementation of requirements under this part 5 in rural exchanges for  
7 which there are no competing ~~basic~~ local exchange providers certified OR  
8 IN WHICH INSUFFICIENT COMPETITION EXISTS.

9 (e) (2) (a) Applications for certificates of public convenience and  
10 necessity to provide basic local exchange service ~~pursuant to this~~  
11 ~~subsection (2)~~ may be filed with the commission at any time. ~~after the~~  
12 ~~effective date of the rules required~~. A person that, on or before January  
13 1, 1995, held a certificate of public convenience and necessity to provide  
14 basic local exchange service under part 2 of this article and who still  
15 holds such certificate ~~shall continue~~ CONTINUES to have such authority  
16 without having to apply to the commission for additional or continued  
17 authority. No provider of local exchange services shall ~~operate~~ PROVIDE  
18 BASIC LOCAL EXCHANGE SERVICE IN AREAS OF INSUFFICIENT COMPETITION  
19 in this state without a certificate of public convenience and necessity.

20 (b) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, ANY  
21 PROVIDER MAY FILE AN APPLICATION FOR PUBLIC CONVENIENCE AND  
22 NECESSITY TO PROVIDE ANY PART 2 OR 3 SERVICE, OR WHOLESALE  
23 SERVICE, AT ITS OPTION, AND THE COMMISSION SHALL RULE ON THE  
24 APPLICATION ON THE MERITS.

25 (f) ~~A telecommunications provider that is granted a certificate of~~  
26 ~~public convenience and necessity to provide local exchange~~  
27 ~~telecommunications service in competition with an incumbent provider~~

1 of local exchange service shall be regulated under part 3 of this article  
2 unless the commission determines that the services of such provider are  
3 not subject to effective competition from the incumbent local exchange  
4 provider.

5 (g)(I) In adopting rules under paragraph (a) of this subsection (2);  
6 and in order to implement the provisions of this part 5 on or before July  
7 1, 1996, as contemplated in said paragraph (a), the commission shall  
8 require that any telecommunications service provider that will provide  
9 unbundled facilities or functions, interconnection, services for resale, or  
10 local number portability pursuant to the rules adopted under said  
11 paragraph (a) shall file an advice letter with the commission to place into  
12 effect tariffs containing temporary interim rates, terms, and conditions of  
13 sale for those services. In connection with the filing of such tariffs, the  
14 commission shall initiate a temporary or emergency proceeding, pursuant  
15 to the authority granted in section 40-2-108 (2) or in article 6 of this title,  
16 having as its objective the issuance of orders approving such tariffs as  
17 filed or as modified by the commission and allowing such filed or  
18 modified tariffs to go into effect on or before July 1, 1996, subject to  
19 true-up and pending the effectiveness of commission tariffs as  
20 contemplated in subparagraph (H) of this paragraph (g) or of  
21 interconnection agreements adopted by negotiation or arbitration and  
22 approved by the commission pursuant to 47 U.S.C. sec. 252 (e),  
23 whichever first occurs.

24 (H) Immediately upon the issuance of orders approving temporary  
25 interim tariffs pursuant to subparagraph (I) of this paragraph (g), the  
26 commission shall initiate a proceeding under section 40-6-111, having as  
27 its objective the adoption of commission tariffs and the issuance of orders



1 to effectuate any necessary true-up. For purposes of this subparagraph  
2 (H), the commission may, but need not, suspend any rate, fare, toll, rental,  
3 charge, classification, contract, practice, rule, or regulation as provided  
4 in section 40-6-111.

5 (HH) Commission tariffs adopted pursuant to subparagraph (H) of  
6 this paragraph (g) shall supersede the temporary interim tariffs adopted  
7 pursuant to subparagraph (I) of this paragraph (g). Interconnection  
8 agreements adopted by negotiation or arbitration and approved by the  
9 commission pursuant to 47 U.S.C. sec. 252 (e) shall supersede both the  
10 temporary interim tariffs and the commission tariffs, but only with regard  
11 to the specific services covered by such agreements and only to the extent  
12 that the terms of such agreements are held applicable to persons other  
13 than the parties to the agreements.

14 (IV) (A) In developing temporary interim tariffs,  
15 telecommunications service providers and the commission shall make  
16 every effort to ensure that the rates, terms, and conditions of sale to be set  
17 forth in such tariffs are based on cost and are nondiscriminatory. Such  
18 rates, terms, and conditions may include a reasonable profit.

19 (B) (3) (a) In adopting commission REVIEWING AND APPROVING  
20 tariffs, the commission shall determine whether the rates, terms, and  
21 conditions of sale to be set forth in such tariffs are based on cost and are  
22 REASONABLE AND nondiscriminatory. Such rates, terms, and conditions  
23 of sale may include a reasonable profit.

24 (b) A PROVIDER OF TELECOMMUNICATIONS SERVICES IN AREAS OF  
25 SUFFICIENT COMPETITION MAY MAINTAIN ON FILE WITH THE COMMISSION  
26 TARIFFS, PRICE LISTS, OR CUSTOMER SERVICE AGREEMENTS APPLICABLE TO  
27 ITS RETAIL SERVICES.

1 (c) A PROVIDER OF RETAIL TELECOMMUNICATIONS SERVICES IN  
2 AREAS OF SUFFICIENT COMPETITION MAY WITHDRAW A TARIFF, PRICE LIST,  
3 OR CUSTOMER SERVICE AGREEMENT REGARDING ANY PART 3 OR 4 SERVICE  
4 UNDER THIS SECTION IF THE SERVICE PROVIDER PROVIDES WRITTEN NOTICE  
5 OF THE WITHDRAWAL TO THE COMMISSION.

6 (d) THE COMMISSION SHALL NOT REQUIRE A PROVIDER OF  
7 TELECOMMUNICATIONS SERVICES TO WITHDRAW A TARIFF, PRICE LIST, OR  
8 CUSTOMER SERVICE AGREEMENT.

9 (e) THIS SECTION DOES NOT AFFECT THE AUTHORITY OF THE  
10 COMMISSION TO REGULATE WHOLESALE SERVICES IN ACCORDANCE WITH  
11 THIS ARTICLE OR TO REVIEW AND RULE UPON CUSTOMER COMPLAINTS  
12 OVER WHICH IT HAS JURISDICTION.

13 ~~(V) As used in this paragraph (g), "true-up" means recovery of the~~  
14 ~~difference between:~~

15 ~~(A) The rates paid under temporary interim tariffs before the~~  
16 ~~adoption of commission tariffs or, if interconnection agreements as~~  
17 ~~contemplated in subparagraph (HH) of this paragraph (g) are in effect, the~~  
18 ~~rates paid under temporary interim tariffs before the effective dates of~~  
19 ~~such agreements; and~~

20 ~~(B) The rates that would have been paid during the same time~~  
21 ~~period had the commission tariffs or interconnection agreements been in~~  
22 ~~effect instead of such temporary interim tariffs.~~

23 ~~(VI) True-up shall be accomplished by means of lump-sum cash~~  
24 ~~payments unless the commission orders another method of payment. If the~~  
25 ~~commission orders a refund or an additional payment to be made at the~~  
26 ~~time of true-up, such refund or additional payment shall be paid with~~  
27 ~~interest at a rate to be determined by the commission.~~

1           ~~(VII) In conducting a temporary or emergency proceeding under~~  
2           ~~subparagraph (f) of this paragraph (g), the commission shall use its best~~  
3           ~~efforts to afford all parties due process and to base its orders on the most~~  
4           ~~reliable evidence available, taking into account the time constraints~~  
5           ~~involved. When proceeding under article 6 of this title, the commission~~  
6           ~~may shorten any time period set forth in said article 6 as reasonably~~  
7           ~~necessary to have tariffs in effect by July 1, 1996.~~

8           ~~(VIII) In all proceedings initiated pursuant to this paragraph (g),~~  
9           ~~the burden of proof shall be on the telecommunications service provider.~~

10           ~~(IX) The following entities shall be exempt from the requirements~~  
11           ~~of this paragraph (g):~~

12           ~~(A) A basic local exchange provider that serves only rural~~  
13           ~~exchanges of ten thousand or fewer access lines;~~

14           ~~(B) As to the interim rates, a college or vocational school as~~  
15           ~~defined in section 23-3-103, C.R.S.~~

16           ~~(h) The commission shall require by rule that any~~  
17           ~~telecommunications service provider required to file temporary interim~~  
18           ~~tariffs pursuant to paragraph (g) of this subsection (2) and, to the extent~~  
19           ~~such a requirement is permissible under federal law, any basic local~~  
20           ~~exchange provider that serves only rural exchanges of ten thousand or~~  
21           ~~fewer access lines and that has received a bona fide request for~~  
22           ~~interconnection shall file advice letters with the commission to place into~~  
23           ~~effect temporary interim tariffs and commission tariffs for unbundled~~  
24           ~~facilities or functions, interconnection, services for resale, or local~~  
25           ~~number portability by such dates certain as the commission may~~  
26           ~~determine by rule.~~

27           ~~(3) During the period of negotiation and rule-making as~~

1 contemplated in this section, the director of the commission may request,  
2 on a case-by-case basis, and the commission may grant, extensions to the  
3 statutorily directed times for completion of proceedings before the  
4 commission; except that no such extension shall be requested for  
5 proceedings under this section. During rule-making under this section, the  
6 commission may, on its own motion and on a case-by-case basis, grant  
7 such extensions; except that no such extension shall be granted for  
8 proceedings under this section.

9           **SECTION 33.** In Colorado Revised Statutes, **repeal** 40-15-503.5  
10 as follows:

11           **40-15-503.5. Financial assurance.** ~~(1) The commission may~~  
12 ~~require regulated telecommunications service providers to post a bond or~~  
13 ~~provide other security as a condition of obtaining a certificate,~~  
14 ~~registration, or operating authority, whichever instrument or instruments~~  
15 ~~apply. In setting the amount of the bond or security, the commission may~~  
16 ~~consider the following criteria:~~

17           ~~(a) The financial viability of the service provider, as evidenced by~~  
18 ~~its audited financial statements and its general credit history;~~

19           ~~(b) The total amount of deposits made by customers to the~~  
20 ~~provider to obtain service and the aggregate amount of prepayments made~~  
21 ~~by customers for monthly regulated service; and~~

22           ~~(c) The history of the provider's statutory payment obligations,~~  
23 ~~including those to the Colorado high cost support mechanism, the~~  
24 ~~Colorado telephone low-income assistance program, the Colorado~~  
25 ~~telephone relay system, and the Colorado fixed utility fund.~~

26           ~~(2) The commission may promulgate rules to implement this~~  
27 ~~section and may impose additional criteria consistent with this section.~~

1           **SECTION 34.** In Colorado Revised Statutes, **repeal** 40-15-509  
2 as follows:

3           **40-15-509. Transfer of certificate.** ~~Any certificate of public~~  
4 ~~convenience and necessity to provide local exchange service may be sold,~~  
5 ~~assigned, leased, encumbered, or transferred as other property only upon~~  
6 ~~authorization by the commission.~~

7           **SECTION 35.** In Colorado Revised Statutes, 6-1-903, **amend** (9)  
8 as follows:

9           **6-1-903. Definitions.** As used in this part 9, unless the context  
10 otherwise requires:

11           (9) "Residential subscriber" means a person who has subscribed  
12 to residential telephone service with a local exchange provider, as defined  
13 in section 40-15-102 ~~(18)~~ (24), C.R.S. "Person" also includes any other  
14 persons living or residing with such person.

15           **SECTION 36.** In Colorado Revised Statutes, 24-37.5-105,  
16 **amend** (3) (i) and (3) (j); and **add** (3) (k) as follows:

17           **24-37.5-105. Office - responsibilities - rules - repeal.** (3) The  
18 office shall:

19           (i) Initiate or approve all procurements of information technology  
20 resources for state agencies and enter into any agreement or contract in  
21 connection with such a procurement on behalf of a state agency or  
22 agencies; ~~and~~

23           (j) Provide information and expertise, to the extent possible,  
24 regarding interoperable and emergency communications planning,  
25 technology, training, and funding opportunities to state, regional, tribal,  
26 and local agencies and emergency personnel and all other stakeholders,  
27 including but not limited to public, private, and nongovernmental

1 organizations; AND

2 (k) ADMINISTER AND MAKE GRANTS FROM THE BROADBAND  
3 CAPITAL INVESTMENT FUND IN ACCORDANCE WITH SECTION 24-37.5-113.

4 **SECTION 37.** In Colorado Revised Statutes, **add** part 8 to article  
5 37.5 of title 24 as follows:

6

PART 8

7

BROADBAND CAPITAL INVESTMENT FUND

8

**24-37.5-801. Broadband capital investment fund - creation -**

9

**grant program - repeal.** THERE IS HEREBY CREATED, IN THE STATE

10

TREASURY, THE BROADBAND CAPITAL INVESTMENT FUND, ALSO REFERRED

11

TO IN THIS SECTION AS THE "FUND". THE FUND CONSISTS OF MONEYS

12

DEPOSITED INTO THE FUND BY TELECOMMUNICATION SERVICE PROVIDERS

13

AT THE DIRECTION OF THE PUBLIC UTILITIES COMMISSION PURSUANT TO

14

SECTION 40-15-208 (2) (a), C.R.S. INTEREST EARNED ON INVESTMENTS IN

15

THE FUND REMAINS IN THE FUND.

16

**24-37.5-802. Definitions.** AS USED IN THIS PART 8, UNLESS THE

17

CONTEXT OTHERWISE REQUIRES:

18

(1) "BROADBAND FUND" OR "FUND" MEANS THE BROADBAND

19

CAPITAL INVESTMENT FUND CREATED IN SECTION 24-37.5-801.

20

(2) "BROADBAND SERVICE" INCLUDES, BUT IS NOT LIMITED TO,

21

SERVICE OFFERED OVER CABLE; WIRE, INCLUDING DIGITAL SUBSCRIBER

22

LINE SERVICE; COMMERCIAL MOBILE RADIO SERVICE, ALSO REFERRED TO

23

IN THIS PART 8 AS CMRS; SATELLITE; FIBER OPTIC FACILITIES; AND POWER

24

LINE FACILITIES. "BROADBAND SERVICE" IS NOT LIMITED TO INTERNET

25

ACCESS SERVICE, NOR IT IS DEFINED BY CONNECTION SPEED OR

26

PROCESSING RATE.

27

(3) "BROADBAND SERVICE PROVIDER" MEANS A PROVIDER OF

1 BROADBAND SERVICE, REGARDLESS OF WHETHER A FEE IS CHARGED FOR  
2 SUCH SERVICE.

3 (4) "MBPS" MEANS MEGABYTE PER SECOND.

4 (5) "NON-SATELLITE BROADBAND SERVICE PROVIDER" MEANS A  
5 PROVIDER THAT PROVIDES BROADBAND SERVICE THROUGH ANY  
6 TECHNOLOGY OTHER THAN SATELLITE, INCLUDING WITHOUT LIMITATION,  
7 CABLE MODEM, CMRS, DIGITAL SUBSCRIBER LINE, OPTIC FIBER, POWER  
8 LINE NETWORKS, OR WI-FI TECHNOLOGIES.

9 (6) "OFFICE" MEANS THE OFFICE OF INFORMATION TECHNOLOGY  
10 CREATED IN SECTION 24-37.5-103.

11 (7) "RFP" MEANS REQUEST FOR PROPOSAL.

12 (8) "UNSERVED AREA" MEANS A GEOGRAPHIC AREA AT LEAST AS  
13 LARGE AS A CENSUS BLOCK GROUP IN WHICH AT LEAST NINETY PERCENT  
14 OF THE RESIDENTS CANNOT SUBSCRIBE TO A NON-SATELLITE BROADBAND  
15 SERVICE PROVIDER.

16 **24-37.5-803. Administration of broadband fund - rules.**

17 (1) ASSESSMENT OF FUNDING FOR THE BROADBAND FUND SHALL BE  
18 THROUGH THE COLORADO HIGH COST SUPPORT MECHANISM AS  
19 ADMINISTERED BY THE PUBLIC UTILITIES COMMISSION AS SET FORTH IN  
20 ARTICLE 15 OF TITLE 40, C.R.S.

21 (2) THE OFFICE SHALL COOPERATE WITH THE PUBLIC UTILITIES  
22 COMMISSION TO EFFECT THE TRANSFER OF FUNDS FROM THE COLORADO  
23 HIGH COST SUPPORT MECHANISM THAT RESULT FROM APPLICATION OF THE  
24 POLICIES ESTABLISHED IN THIS SECTION AND ARTICLE 15 OF TITLE 40,  
25 C.R.S., TO THE BROADBAND FUND ON A QUARTERLY BASIS.

26 (3) THE OFFICE SHALL ADMINISTER THE DISTRIBUTION OF THE  
27 BROADBAND FUND AS SET FORTH IN SECTIONS 24-37.5-804 AND

1 24-37.5-805.

2 (4) COMMENCING ON OR BEFORE JULY 1, 2012, THE OFFICE SHALL  
3 OPEN A RULE-MAKING PROCEEDING TO PROMULGATE RULES FOR THE  
4 ADMINISTRATION AND DISTRIBUTION OF MONEYS FROM THE BROADBAND  
5 FUND IN ACCORDANCE WITH THIS PART 8. SUCH RULE-MAKING  
6 PROCEEDING SHALL INCLUDE RECEIPT OF COMMENTS FROM INTERESTED  
7 STAKEHOLDERS AND AT LEAST ONE WORKSHOP, AND A RULE-MAKING  
8 DECISION SHALL BE ISSUED NO LATER THAN OCTOBER 31, 2012, WITH THE  
9 GOAL THAT THE RULES WILL BE IN EFFECT BY DECEMBER 31, 2012. THE  
10 RULE-MAKING PROCEEDING SHALL BE CONDUCTED CONSISTENT WITH THE  
11 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF THIS TITLE.

12 **24-37.5-804. Operation of broadband fund.** (1) COMMENCING  
13 ON OR BEFORE JULY 1, 2012, THE OFFICE SHALL CONDUCT A SURVEY AND  
14 GATHER INFORMATION TO DETERMINE THE UNSERVED AREAS IN THE STATE  
15 THAT ARE ELIGIBLE FOR BROADBAND FUND SUPPORT. THE OFFICE SHALL  
16 COMPLETE THIS DETERMINATION AND ISSUE ITS FINDINGS VIA PUBLIC  
17 REPORT NO LATER THAN DECEMBER 31, 2012.

18 (2) NO LATER THAN MARCH 31, 2013, THE OFFICE SHALL ISSUE  
19 RFPs FOR EACH UNSERVED AREA OR COMBINATION OF UNSERVED AREAS.  
20 EACH RFP SHALL SPECIFY THAT BROADBAND FUND GRANTS SHALL BE  
21 USED ONLY TO SUPPORT INFRASTRUCTURE COSTS AND CAPITAL  
22 CONSTRUCTION COSTS THAT DIRECTLY SUPPORT BROADBAND SERVICE.

23 (3) EACH RFP SHALL REQUIRE BIDS FOR CONTRACT TERMS OF ONE  
24 OR MORE YEARS. FROM TIME TO TIME THE OFFICE SHALL ISSUE FURTHER  
25 RFPs AS REQUIRED, BUT NO CONTRACT TERM MAY EXTEND BEYOND  
26 DECEMBER 31, 2025.

27 ==



1           (4) THE FOLLOWING ENTITIES ARE ELIGIBLE TO BID INTO A RFP:

2           (a) ANY COOPERATIVE ELECTRIC ASSOCIATION OR WHOLLY OWNED  
3           SUBSIDIARY OF A COOPERATIVE ELECTRIC ASSOCIATION; AND

4           (b) ANY BROADBAND PROVIDER THAT IS REGISTERED IN GOOD  
5           STANDING WITH THE COLORADO SECRETARY OF STATE'S OFFICE AS OF  
6           DECEMBER 31, 2012.

7           (5)       GOVERNMENT AGENCIES, MUNICIPALITIES,  
8           INTER-GOVERNMENTAL AGENCIES,      AND ANY OTHER ORGANIZATION  
9           CONTROLLED, IN WHOLE OR IN PART, BY A PUBLIC ENTITY ARE PROHIBITED  
10          FROM RECEIVING FUNDS UNDER THIS SECTION.

11              

12          (6)       THE OFFICE SHALL PUBLICLY ANNOUNCE THE WINNING  
13          RECIPIENT OF EACH RFP WITHIN NINETY DAYS, UNLESS THERE IS  
14          INSUFFICIENT FUNDING IN THE OFFICE'S BROADBAND FUND ACCOUNT. IF  
15          THERE IS INSUFFICIENT FUNDING, THE WINNER SHALL BE ANNOUNCED  
16          WHEN FUNDING BECOMES SUFFICIENT TO SATISFY THE CONTRACT TERMS.

17          **24-37.5-805. Distribution of broadband fund.** (1) BEGINNING  
18          IN JANUARY 2013, THE OFFICE WILL RECEIVE QUARTERLY PAYMENTS FROM  
19          THE PUBLIC UTILITIES COMMISSION THAT SHALL BE USED TO ADMINISTER  
20          AND DISTRIBUTE THE BROADBAND FUND.

21          (2)       THE OFFICE SHALL NOT ENTER A CONTRACT WITH ANY  
22          BROADBAND SERVICE PROVIDER UNTIL THE OFFICE HAS DETERMINED THAT  
23          THERE IS SUFFICIENT FUNDING ACCRUED IN THE BROADBAND FUND  
24          ACCOUNT TO SATISFY THE TERMS OF THE CONTRACT.

25          (3)       THE OFFICE SHALL DISTRIBUTE THE BROADBAND FUND  
26          ACCORDING TO THE FOLLOWING PARAMETERS:

27          (a)       THE OFFICE SHALL DISTRIBUTE BROADBAND FUND AMOUNTS

1 ONLY TO WINNING RECIPIENTS FOR UNSERVED AREAS;

2 (b) THE OFFICE SHALL PRIORITIZE FUNDING TO UNSERVED AREAS  
3 WITH THE MOST POTENTIAL BROADBAND CUSTOMERS THAT CAN BE  
4 SERVED BY QUALIFIED BROADBAND SERVICE PROVIDERS AT THE LEAST  
5 COST;

6 (c) THE OFFICE SHALL DISTRIBUTE BROADBAND FUND AMOUNTS  
7 ONLY TO SUPPORT INFRASTRUCTURE COSTS AND CAPITAL CONSTRUCTION  
8 COSTS THAT DIRECTLY SUPPORT BROADBAND SERVICE;

9 (d) THE OFFICE SHALL DISTRIBUTE BROADBAND FUND AMOUNTS  
10 ONLY FOR PROVISION OF BROADBAND SERVICE WITH ACTUAL SPEEDS OF AT  
11 LEAST FOUR MBPS DOWNSTREAM AND ONE MBPS UPSTREAM;

12 (e) THE OFFICE SHALL ESTABLISH AND UTILIZE APPROPRIATE  
13 CRITERIA TO ENSURE THAT A BROADBAND WINNING RECIPIENT HAS THE  
14 NECESSARY QUALIFICATIONS, CAPITAL, AND BUSINESS STANDING BEFORE  
15 CONTRACTING WITH ANY PROVIDER;

16 (f) THE OFFICE SHALL ESTABLISH AND UTILIZE APPROPRIATE  
17 CRITERIA TO ENSURE THAT A BROADBAND WINNING RECIPIENT IS SUBJECT  
18 TO BUILD-OUT REQUIREMENTS WITH A REASONABLE TIMELINE AND  
19 MILESTONES, AND SHALL ESTABLISH AND UTILIZE A PAYOUT SCHEDULE  
20 DEPENDENT ON MEETING THE TIMELINE AND MILESTONES ESTABLISHED BY  
21 THE OFFICE;

22 (g) THE OFFICE SHALL ESTABLISH AND UTILIZE APPROPRIATE  
23 CRITERIA TO TAKE INTO ACCOUNT FEDERAL BROADBAND SUBSIDIES  
24 RECEIVED BY OR EXPECTED TO BE RECEIVED BY A WINNING RECIPIENT TO  
25 MINIMIZE THE POSSIBILITY OF OVERCOMPENSATION FOR THE  
26 INFRASTRUCTURE COSTS AND CAPITAL CONSTRUCTION COSTS THAT  
27 DIRECTLY SUPPORT BROADBAND SERVICE; AND

1 (h) NOTHING IN THIS PART 8 REQUIRES THE OFFICE TO ENTER INTO  
2 CONTRACTS FOR EACH OR ANY UNSERVED AREA. THE OFFICE HAS THE  
3 DISCRETION TO PRIORITIZE WHICH UNSERVED AREAS SHALL RECEIVE  
4 BROADBAND FUNDS AND WHICH BROADBAND SERVICE PROVIDERS WITH  
5 WHICH TO ENTER CONTRACTS AS SET FORTH IN THIS SECTION. HOWEVER,  
6 THE OFFICE SHOULD NOT UNNECESSARILY KEEP A LARGE BALANCE IN THE  
7 BROADBAND FUND ACCOUNT, AND SHOULD ATTEMPT TO MINIMIZE THE  
8 BALANCE BEFORE THE SUNSET OF THE FUND.

9 (4) A BROADBAND FUND RECIPIENT SHALL BE SUBJECT TO AUDIT  
10 BY THE OFFICE TO ENSURE THAT THE WINNING RECIPIENT IS WORKING TO  
11 MEET BUILD-OUT REQUIREMENTS AND BROADBAND GRANTS RECEIVED  
12 HAVE BEEN APPLIED BY THE RECIPIENT ONLY TO SUPPORT  
13 INFRASTRUCTURE COSTS AND CAPITAL CONSTRUCTION COSTS THAT  
14 DIRECTLY SUPPORT BROADBAND SERVICE. ANY RECIPIENT THAT HAS BEEN  
15 FOUND BY THE OFFICE TO HAVE APPLIED FUNDS FOR ANY OTHER PURPOSE  
16 IS SUBJECT TO A REFUND ORDER, INCLUDING INTEREST, ISSUED BY THE  
17 OFFICE FOR IMPROPERLY APPLIED FUNDS.

18 **24-37.5-806. Sunset of broadband fund.** THIS PART 8 IS  
19 REPEALED, EFFECTIVE JULY 1, 2025. ANY UNEXPENDED AND  
20 UNENCUMBERED MONEYS REMAINING IN THE FUND AS OF JUNE 30, 2025,  
21 REVERT TO THE GENERAL FUND.

22 **SECTION 38.** In Colorado Revised Statutes, 29-11-101, **amend**  
23 (10) as follows:

24 **29-11-101. Definitions.** As used in this article, unless the context  
25 otherwise requires:

26 (10) "Telecommunications service" has the meaning set forth in  
27 section 40-15-102 ~~(29)~~ (42), C.R.S.

1           **SECTION 39.** In Colorado Revised Statutes, 29-27-102, **amend**  
2 (6) as follows:

3           **29-27-102. Definitions.** As used in this article, unless the context  
4 otherwise requires:

5           (6) "Telecommunications service" has the same meaning as set  
6 forth in section 40-15-102 (~~29~~) (42), C.R.S.

7           **SECTION 40.** In Colorado Revised Statutes, 30-20-603, **amend**  
8 (1) (a) as follows:

9           **30-20-603. Improvements and funding authorized - how**  
10 **instituted - conditions.** (1) (a) A COUNTY MAY FORM A district ~~may be~~  
11 ~~formed~~ in accordance with ~~the requirements of~~ this part 6 for the purpose  
12 of constructing, installing, acquiring, or funding, in whole or in part, any  
13 public improvement, so long as the county that forms the district is  
14 authorized to provide such improvement or provide for such funding  
15 under the county's home rule charter, if any, or the laws of this state.  
16 Public improvements or the funding thereof ~~shall~~ DO not include any  
17 facility identified in section 30-20-101 (8) or (9). No such district shall  
18 provide the same improvement as an existing special district within the  
19 territory of such existing special district unless the existing special district  
20 consents. The improvements authorized by this part 6 may consist,  
21 without limitation, of constructing, grading, paving, pouring, curbing,  
22 guttering, lining, or otherwise improving the whole or any part of any  
23 street or providing street lighting, drainage facilities, or service  
24 improvements, in the unincorporated area of a county or wholly or partly  
25 within the boundaries of any municipality within the county if such  
26 municipality consents by ordinance to such improvements. If  
27 improvements within a municipality are ~~so~~ included in a county

1 improvement district by municipal consent, the county ~~shall have~~ HAS full  
2 authority to construct or acquire such improvements, to assess property  
3 within ~~such~~ THE municipality benefited by such improvements, and to  
4 enforce and collect ~~such~~ THE assessments, in the manner provided in this  
5 part 6. The improvements authorized by this part 6 may include, without  
6 limitation, the construction of sidewalks adjacent to any such streets or  
7 maintenance roads adjacent to any such drainage facilities. Prior to the  
8 establishment of any improvement district for the purpose of providing  
9 street lighting, arrangements, by contract or otherwise, must be  
10 established under which the owners of property included within ~~such~~ THE  
11 district ~~shall be~~ ARE responsible for the maintenance and operation of  
12 ~~such~~ THE street lighting improvement. The costs of maintenance and  
13 operation of ~~such~~ street lighting improvements shall not be paid from the  
14 county general fund. Drainage facilities ~~shall~~ MUST not be provided in any  
15 area ~~which~~ THAT is within an existing drainage district organized or  
16 created pursuant to law without the approval of ~~such~~ THE district. The  
17 term "service" as used in this paragraph (a) includes the services provided  
18 by a public utility as defined in section 40-1-103, C.R.S., as well as  
19 advanced service as defined in section 29-27-102 (1), C.R.S., cable  
20 television service as defined in section 29-27-102 (2), C.R.S.,  
21 telecommunications service as defined in section 40-15-102 ~~(29)~~ (42),  
22 C.R.S., geothermal heat suppliers as defined in section 40-40-103, C.R.S.,  
23 and information service as defined in 47 U.S.C. sec. 153 (20), or any  
24 successor section.

25           **SECTION 41.** In Colorado Revised Statutes, 38-5.5-102, **amend**  
26 (3) as follows:

27           **38-5.5-102. Definitions.** As used in this article, unless the context

1 otherwise requires:

2 (3) "Telecommunications provider" or "provider" means a person  
3 that provides telecommunications service, as defined in section 40-15-102  
4 ~~(29)~~ (42), C.R.S., with the exception of cable services as defined by  
5 section 602(5) of the federal "Cable Communications Policy Act of  
6 1984", 47 U.S.C. sec. 522(6), pursuant to authority granted by the public  
7 utilities commission of this state or by the federal communications  
8 commission. "Telecommunications provider" or "provider" does not mean  
9 a person or business using antennas, support towers, equipment, and  
10 buildings used to transmit high power over-the-air broadcast of AM and  
11 FM radio, VHF and UHF television, and advanced television services,  
12 including high definition television. The term "telecommunications  
13 provider" is synonymous with "telecommunication provider".

14 **SECTION 42.** In Colorado Revised Statutes, 40-3-106, **amend**  
15 (1) (c) as follows:

16 **40-3-106. Advantages prohibited - graduated schedules -**  
17 **consideration of household income and other factors - definitions.**

18 (1) (c) A local exchange provider, as defined in section 40-15-102 ~~(18)~~  
19 (24), may enter into a contract, when necessary, specifying  
20 non-cost-based rates and conditions particular to that contract with one or  
21 more purchasers of services for applications of interactive video  
22 technology for purposes of distance learning, video arraignment of  
23 defendants in criminal cases, or examination, diagnosis, or treatment of  
24 patients in the course of medical practice. When an application is subject  
25 to a bidding process by the end user of the service, the local exchange  
26 providers offering component elements of interactive video technology  
27 pursuant to this paragraph (c) shall offer the component elements relating

1 to a specific application to a specific end user to all bidders, including  
2 themselves, if bidding, at the same rates, terms, and conditions. This  
3 exception ~~shall~~ DOES not apply to any other regulated service. A provider  
4 other than a local exchange provider may offer such interactive video  
5 services if such services are provided under the same terms and  
6 conditions as specified in this paragraph (c). A LOCAL EXCHANGE  
7 PROVIDER SHALL FILE each contract entered into under this paragraph (c)  
8 ~~shall be filed~~ with the commission for information only.

9 **SECTION 43.** In Colorado Revised Statutes, 40-3-115, **amend**  
10 (2) (a) as follows:

11 **40-3-115. Recovery of utility relocation costs.**

12 (2) (a) ~~Notwithstanding the provisions of section 40-15-502 (3) (b) (I) to~~  
13 ~~(3) (b) (V);~~ Local exchange providers of basic local exchange service  
14 subject to regulation pursuant to part 2, ~~part~~ 3, or ~~part~~ 5 of article 15 of  
15 this title may request authorization from the commission to recover the  
16 actual costs incurred for the relocation of infrastructure or facilities  
17 requested by the state or a political subdivision. Actual costs are the  
18 nonfacility costs incurred in the relocation plus the undepreciated amount  
19 of the facilities being replaced. Recovery of actual costs incurred for  
20 relocation is intended for those state and political subdivision requests  
21 that are determined by the commission to be beyond the normal course of  
22 business.

23 **SECTION 44. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, and safety.