

HOUSE BILL NO. 45

INTRODUCED BY K. ZOLNIKOV

BY REQUEST OF THE PUBLIC SERVICE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TELECOMMUNICATION REGULATION LAWS; ELIMINATING PUBLIC SERVICE COMMISSION RATE REGULATION; ELIMINATING THE MONTANA STATE UNIVERSAL FUND; REPEALING THE PERFORMANCE ASSURANCE PLAN STATE ACCOUNT AND THE ASSOCIATED STATUTORY APPROPRIATION; EXEMPTING INTERNET PROTOCOL-ENABLED SERVICES; AMENDING SECTIONS 15-53-129, 17-7-502, 69-3-225, 69-3-302, 69-3-305, 69-3-803, AND 69-3-805, MCA; REPEALING SECTIONS 69-3-808, 69-3-809, 69-3-810, 69-3-821, 69-3-841, 69-3-842, 69-3-843, 69-3-844, 69-3-845, 69-3-846, 69-3-870, 69-3-901, 69-3-902, 69-3-903, 69-3-904, 69-3-906, 69-3-907, AND 69-3-910, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-53-129, MCA, is amended to read:

"15-53-129. (Temporary) Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Call-by-call basis" means any method of charging for telecommunications services that measures the price by individual calls.

(2) (a) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in 47 CFR 20.3, as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(b) The term does not include one-way radio communications as included in 47 CFR 20.3, as in effect on June 1, 1999.

(3) (a) "Customer" or "purchaser" means, except as provided in subsection (3)(b), a person who

1 acquires for consideration retail telecommunications services for use or consumption and not for resale.

2 (b) For purposes of mobile telecommunications services, the term means:

3 (i) the person or entity that contracts with the home service provider for mobile
4 telecommunications services; or

5 (ii) if the end user of mobile telecommunications services is not the contracting party, the end user
6 of the mobile telecommunications services, but only for the purpose of determining the place of primary use.

7 (c) The term does not include:

8 (i) a reseller of mobile telecommunications services; or

9 (ii) a serving carrier under an arrangement to serve the customer outside the home service
10 provider's licensed service area.

11 (4) "Home service provider" means the facilities-based carrier or reseller that the customer
12 contracts with for the provision of mobile telecommunications services.

13 (5) "Mobile telecommunications services" means commercial mobile radio service, as defined in 47
14 CFR 20.3, as in effect on June 1, 1999.

15 (6) "Place of primary use" means the street address for the premises where the customer's use of
16 telecommunications services primarily occurs, which must be the residential street address or the primary
17 business street address of the customer. For mobile telecommunications services, the place of primary use
18 must be within the licensed service area of the home service provider.

19 (7) "Postpaid calling basis" means that telecommunications services are obtained by making a
20 payment on a call-by-call basis, either through the use of a card or payment mechanism, such as a bank card,
21 travel card, credit card, or debit card, or by a charge made to a telephone number that is not associated with
22 the origination or termination of the telecommunications service.

23 (8) "Private communications service" means a telecommunications service that entitles the
24 customer to exclusive or priority use of a communications channel or group of channels between or among
25 termination points, regardless of the manner in which the channel or channels are connected, and includes
26 switching capacity, extension lines, stations, and other associated services that are provided in connection with
27 the use of the channel or channels.

28 (9) (a) "Reseller" means a provider who purchases mobile telecommunications services from

another telecommunications services provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service.

(b) The term does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(10) (a) "Retail telecommunications" means, except as provided in subsection (10)(b), the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or terminates in this state and is charged to a customer with a Montana service address.

(b) For mobile telecommunications services, the term means the two-way transmission of voice, image, data, or other information that originates or terminates in a single state that is charged to a Montana service address.

(c) The term includes but is not limited to local exchange, long-distance, private communications, two-way paging, wireless telecommunications, and related services, regardless of whether the services are paid for on a call-by-call basis or postpaid calling basis.

(11) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) The term does not include:

(i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed by this part;

(ii) charges added to a customer's bill under 10-4-201, and 53-19-311, ~~and 69-3-844~~;

(iii) federal excise taxes or other federally imposed charges or fees collected for and remitted to a federal government entity;

(iv) a charge for a dishonored check;

(v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(vi) a charge for construction or relocation of facilities;

(vii) charges for the installation, repair, inspection, or servicing of equipment and wiring located on customer premises;

- 1 (viii) bad debt;
- 2 (ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in
- 3 placing calls for guests;
- 4 (x) charges paid by inserting coins in coin-operated telecommunications devices; and
- 5 (xi) charges for telecommunications services that have been prepaid by a prepaid calling card that
- 6 enables the origination of calls by using an access number or authorization code.
- 7 (12) (a) "Service address" means, except as provided in subsection (12)(b):
- 8 (i) the location of the telecommunications equipment to which a customer's call is charged and
- 9 from which the call originates or terminates, regardless of the location to which the bill for the call is sent or the
- 10 location from which the payment of the bill is received;
- 11 (ii) if the location in subsection (12)(a)(i) is not known, the origination point of the signal of the
- 12 telecommunications service first identified by either the seller's telecommunications system or, if the system
- 13 used to transport the signal is not that of the seller, in information received by the seller from its service
- 14 provider; or
- 15 (iii) if the location in subsection (12)(a)(i) or (12)(a)(ii) is not known, the location of the customer's
- 16 place of primary use.
- 17 (b) For mobile telecommunications services, the term means the location in Montana of the
- 18 customer's place of primary use.
- 19 (13) "Serving carrier" means a facilities-based carrier providing mobile telecommunications services
- 20 to a customer outside a home service provider's or reseller's licensed service area.
- 21 (14) "Telecommunications services provider" means a person providing retail telecommunications
- 22 services. (Terminates on occurrence of contingency--sec. 8, Ch. 515, L. 2003.)
- 23 **15-53-129. (Effective on occurrence of contingency) Definitions.** As used in this part, unless the
- 24 context requires otherwise, the following definitions apply:
- 25 (1) "Customer" or "purchaser" means a person who acquires for consideration retail
- 26 telecommunications services for use or consumption and not for resale.
- 27 (2) "Retail telecommunications" means the two-way transmission of voice, image, data, or other
- 28 information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or

terminates in this state and is billed to a customer with a Montana service address. The term includes but is not limited to local exchange, long-distance, two-way paging, wireless telephony, and related services.

(3) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) Sales price does not include:

(i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed by this part;

(ii) charges added to a customer's bill under 10-4-201, and 53-19-311 and ~~69-3-844~~;

(iii) federal excise taxes or other federally imposed charges or fees collected for and remitted to a federal government entity;

(iv) a charge for a dishonored check;

(v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;

(vi) a charge for construction or relocation of facilities;

(vii) the installation, repair, inspection, or servicing of equipment and wiring located on customer premises;

(viii) bad debt;

(ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in placing calls for guests;

(x) charges paid by inserting coins in coin-operated telecommunications devices; and

(xi) charges for telecommunications services that have been prepaid by a prepaid calling card that enables the origination of calls by using an access number or authorization code.

(4) "Service address" means:

(a) the location from where the retail telecommunications services originated or where the retail telecommunications services are received; or

(b) where there is not a defined location, the location in Montana where the statement of charges for retail telecommunications services is mailed.

(5) "Telecommunications services provider" means a person providing retail telecommunications

1 services."

2

3 **Section 2.** Section 17-7-502, MCA, is amended to read:

4 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory

5 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
6 the need for a biennial legislative appropriation or budget amendment.

7 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with
8 both of the following provisions:

9 (a) The law containing the statutory authority must be listed in subsection (3).

10 (b) The law or portion of the law making a statutory appropriation must specifically state that a
11 statutory appropriation is made as provided in this section.

12 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
13 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-
14 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121;
15 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-
16 117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-
17 3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-410;
18 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-3-
19 369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-
20 116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-
21 204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 50-
22 1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-
23 309; ~~69-3-870~~; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-
24 13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-
25 203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-
26 1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

27 (4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees
28 associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due

1 in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued
2 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
3 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
4 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
5 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
6 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
7 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
8 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
9 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
10 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
11 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates
12 September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027;
13 pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs.
14 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch.
15 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021,
16 the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-
17 310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates
18 June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025;
19 pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to
20 sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-
21 113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142
22 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates
23 June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031;
24 pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to
25 sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L.
26 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion
27 of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143
28 terminates December 31, 2025.)"

1

2 **Section 3.** Section 69-3-225, MCA, is amended to read:

3 **"69-3-225. Overbilling of regulated telecommunications tariff charges -- statute of limitations**
4 **for recovery.** (1) A person or entity alleging overbilling of tariffed telecommunications charges by a regulated
5 telecommunications company shall file the action before the commission or a court of competent jurisdiction
6 within 2 years of the date of overbilling.

7 (2) This section is intended to be consistent with limitations on actions as provided in 47 U.S.C.
8 415.

9 (3) For purposes of this section, the following definitions apply:

10 (a) "Overbilling" means presenting a bill to a customer of a regulated telecommunications company
11 that includes charges that overstate the amount owed by the customer pursuant to the tariff for the service as
12 approved by and on file with the commission.

13 (b) "Regulated telecommunications company" means all public utility companies that are regulated
14 pursuant to 69-3-101(1)(f), Title 69, chapter 3, part 8, and ~~69-3-803-(10)~~ 69-3-803(9).

15 (c) "Tariffed telecommunications charges" means all charges and fees for regulated services billed
16 by a regulated telecommunications company as authorized by a tariff that has been approved by and filed with
17 the commission."
18

19 **Section 4.** Section 69-3-302, MCA, is amended to read:

20 **"69-3-302. Changes in schedules.** (1) Except as provided in 69-3-308, a change may not be made
21 in any schedule, including schedules of joint rates, except as approved by the commission, ~~upon or on the~~
22 passage of 9 months, ~~or by operation of 69-3-907(1)~~. If the 9-month time period expires prior to commission
23 approval of a schedule, a utility may waive the time period.

24 (2) Notwithstanding any provision of this title to the contrary, other than rate adjustments made
25 pursuant to 69-3-308, the rates, tolls, or charges set forth in any schedule filed with the commission pursuant to
26 69-3-301 must become effective and be lawful rates, tolls, or charges for the utility service rendered 9 months
27 after the date upon which the schedule was filed under the rules of practice and procedure for filing as adopted
28 by the commission or upon commission approval, whichever occurs first, unless the utility waives the 9-month

1 time period. However, if the rates, tolls, or charges become effective because of the passage of 9 months, the
2 revenue collected is subject to rebate, plus interest at an annual rate determined by the commission, to the
3 extent that the rates, tolls, or charges ultimately approved by the commission in its final decision produce
4 revenue that is less than that collected under the filed schedules. In the case of an investor-owned utility, the
5 interest rate set by the commission may not exceed the cost of equity capital as last determined by the
6 commission.

7 (3) The commission may prescribe rules necessary to effectively administer this section."
8

9 **Section 5.** Section 69-3-305, MCA, is amended to read:

10 **"69-3-305. Deviations from scheduled rates, tolls, and charges.** (1) Except as provided in
11 subsection ~~(5)(a)~~ (4)(a), a public utility may not:

12 (a) charge, demand, collect, or receive a greater or less compensation for a utility service
13 performed by it within the state or for any service in connection with a utility service than is specified in the
14 printed schedules, including schedules of joint rates, that may at the time be in force;

15 (b) demand, collect, or receive a rate, toll, or charge not specified in the schedules; or

16 (c) grant a rebate, concession, or special privilege to a consumer or user that, directly or indirectly,
17 has or may have the effect of changing the rates, tolls, charges, or payments.

18 (2) The rates, tolls, and charges named in the printed schedules are the lawful rates, tolls, and
19 charges until the rates, tolls, and charges are changed, as provided in this chapter.

20 (3) The commission may order refunds or credits of rates, tolls, or charges collected in violation of
21 this section and may order payment of interest at a reasonable rate on the refunded amount.

22 ~~(4) The provisions of this section do not prohibit the sharing of profits or revenues with customers~~
23 ~~in conjunction with an alternative form of regulation approved under 69-3-809.~~

24 ~~(5)(4)~~ (a) A provider of regulated telecommunications service may offer, for a limited period of time,
25 rebates, price reductions, or waivers of charges in conjunction with promotions, market trials, or other sales-
26 related activities that are common business practices. Promotional pricing for services to end users does not
27 require advance approval of the commission. Informational price lists must be filed with the commission on or
28 before the date that the promotion begins.

(b) A public utility providing electricity or natural gas may offer grants and subsidized loans to install energy conservation and nonfossil forms of energy generation systems in dwellings.

(c) The commission may define the appropriate scope of promotions, rebates, market trials, and grants and subsidized loans, either by rule or in response to complaints. The commission may determine whether a particular sales activity or grant or subsidized loan program under this subsection (4) is unfairly discriminatory or is not cost-effective. Costs and expenses incurred or revenue foregone with respect to sales activities and grant and subsidized loan programs that the commission determines are unfairly discriminatory or not cost-effective are the responsibility of the provider's shareholders in rates set by the commission.

~~(6)(5)~~ A public utility violating the provisions of this section is subject to the penalty prescribed in 69-3-206. However, this does not have the effect of suspending, rescinding, invalidating, or in any way affecting existing contracts."

Section 6. Section 69-3-803, MCA, is amended to read:

"69-3-803. Definitions. As used in this part, the following definitions apply:

(1) "Commercial mobile radio service" means commercial mobile radio service as defined in 47 CFR 20.9.

(2) "Commission" means the public service commission.

(3) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

~~(4) "Fund" means the universal service fund established in 69-3-842.~~

~~(5)(4)~~ "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

(a) on February 8, 1996, provided telephone exchange service in the area; and

(b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of the exchange carrier association.

~~(6)(5)~~ "Local telecommunications" means:

(a) telecommunications originating in a wireline local calling area, including extended area service

1 areas, and terminating in the same wireline local calling area or extended area service area; or

2 (b) commercial mobile radio service that originates from or terminates to a commercial mobile
3 radio service provider within the same major trading area as defined in 47 CFR 24.202(a).

4 ~~(7)~~(6) "Nonlocal telecommunications" means:

5 (a) wireline telecommunications traffic carried by either an interlocal access transport area carrier
6 or an intralocal access transport area toll provider that originates in one wireline local calling area and
7 terminates in another wireline local calling area; or

8 (b) commercial mobile radio service that originates in a major trading area and terminates in a
9 different major trading area as defined in 47 CFR 24.202(a).

10 ~~(8)~~(7) "Originating carrier" means a telecommunications carrier from whose network a customer
11 originates telecommunications traffic.

12 ~~(9)~~(8) "Private telecommunications service" means a system, including the construction,
13 maintenance, or operation of the system, for the provision of telecommunications service or any portion of the
14 service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly
15 or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its
16 affiliates and subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of
17 80% of the outstanding voting shares.

18 ~~(10)~~(9) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and
19 transport of communications originating and terminating in this state and nonvoice-grade access and transport
20 if intended to be converted to or from voice-grade access and transport.

21 (b) Except as provided in 69-3-815, the term does not include the provision of terminal equipment
22 used to originate or terminate the regulated service, private telecommunications service, one-way transmission
23 of television signals, cellular communication, or provision of radio paging or mobile radio services.

24 ~~(11)~~(10) "Retail revenue" means the gross Montana revenue from telecommunications services that
25 originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the
26 resale of telecommunications services to another telecommunications services provider that uses the
27 telecommunications services to provide telecommunications services to the ultimate retail consumer who
28 originates or terminates the transmission.

~~(12)~~(11)"Rural telephone company" means a local exchange carrier operating entity to the extent that the entity:

(a) provides common carrier service to any local exchange carrier study area that does not include either:

(i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently available population statistics of the United States bureau of the census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United States bureau of the census as of August 10, 1993;

(b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(c) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

~~(13)~~(12)"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing without a change in the form or content of the information upon receipt.

~~(14)~~(13)(a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services. A person providing other products and services in addition to telecommunications services is considered a telecommunications carrier only to the extent that it is engaged in providing telecommunications services.

(b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226.

~~(15)~~(14)"Terminating carrier" means a telecommunications carrier upon whose network telecommunications traffic terminates.

~~(16)~~(15)(a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to a transiting carrier or carriers for delivery to a terminating carrier.

(b) The term does not mean traffic carried by interlocal access transport area carriers or providers of intralocal access transport area toll services.

(17)(16)"Transiting carrier" means a telecommunications carrier or carriers that transport transit traffic from an originating carrier to a terminating carrier and that do not originate or terminate telecommunications traffic."

Section 7. Section 69-3-805, MCA, is amended to read:

"69-3-805. Registration of telecommunications providers. (1) Before any person or entity provides telecommunications service within the state of Montana, it shall file with the commission a notice including:

- (a) the name, address, and telephone number of the provider;
- (b) the name, address, and telephone number of the person responsible for regulatory contacts and customer dispute resolution on behalf of the provider;
- (c) a description of the provider's existing operations and general service and operating areas in any other jurisdictions;
- (d) a list of the provider's parent, subsidiary, and affiliated companies, together with principal addresses and telephone numbers of each;
- (e) ~~initial tariffs or price lists for regulated telecommunications services, including a narrative~~ description of the regulated telecommunications to be offered and the geographic area and markets to be served;
- (f) a general description of the facilities and equipment that will be used to provide services, including whether the service will be offered on a facilities basis, a resale basis, or a combination of both of them;
- (g) a statement of whether the provider intends to draw from the federal or state universal service fund or other explicit support funds, including a statement of whether the provider intends to seek the commission's designation as an eligible telecommunications carrier;
- (h) disclosure of any formal actions against it by any court or state or federal regulatory agency that resulted in any type of penalty or sanction within the 5 years prior to the date of filing the notice;
- (i) if the provider is other than a corporation, a description of the form of ownership, the names and addresses of all principal owners and managers, the provider's agent for service of process in Montana, and the date of creation of the business entity; and

(j) other information from regulated telecommunications carriers as the commission may require to accomplish the purposes of this chapter.

(2) The commission may waive any of the requirements set forth in subsection (1).

(3) The provider shall file with the commission a report of any judgment, penalty, or sanction entered in any other jurisdiction that could adversely affect the provider's ability to provide communications services in Montana."

NEW SECTION. SECTION 8. INTERNET PROTOCOL-ENABLED SERVICE NOT REGULATED. (1) AN INTERNET PROTOCOL-ENABLED SERVICE IS NOT SUBJECT TO REGULATION UNDER THIS TITLE.

(2) EXCEPT AS PROVIDED IN SUBSECTIONS (3) AND (4), AN AGENCY, COMMISSION, OR POLITICAL SUBDIVISION MAY NOT ENACT, ADOPT, OR ENFORCE A LAW, RULE, REGULATION, ORDINANCE, STANDARD, ORDER, OR OTHER PROVISION THAT REGULATES THE ENTRY, RATES, TERMS, OR CONDITIONS OF ANY INTERNET PROTOCOL-ENABLED SERVICE OR OTHERWISE TREATS PROVIDERS OF INTERNET PROTOCOL-ENABLED SERVICE AS CARRIERS.

(3) THIS SECTION DOES NOT:

(A) RESTRICT AUTHORITY DELEGATED TO THE COMMISSION OR TO A STATE AGENCY UNDER FEDERAL STATUTE, RULE, OR ORDER;

(B) RESTRICT THE APPLICATION OF A LAW RELATED TO CONSUMER PROTECTION AND FAIR COMPETITION OF GENERAL APPLICABILITY TO AN INTERNET PROTOCOL-ENABLED SERVICE OR PROVIDER;

(C) MODIFY OR AFFECT THE RIGHTS OR OBLIGATIONS OF A CARRIER UNDER 47 U.S.C. 251 OR 47 U.S.C. 252;

(D) MODIFY OR AFFECT COMMISSION AUTHORITY OVER WHOLESALE TELECOMMUNICATIONS SERVICES, RATES, AGREEMENTS, INTERCONNECTION, OR TARIFFS;

(E) MODIFY OR AFFECT THE RIGHTS OR OBLIGATIONS OF ANY ENTITY FOR THE USE OF PUBLIC STREETS, ROADS, HIGHWAYS, AND RIGHTS-OF-WAY, INCLUDING UNDER AN ORDINANCE OR AGREEMENT MANAGING OR PROVIDING ACCESS TO THE PUBLIC RIGHT-OF-WAY;

(F) MODIFY OR AFFECT THE ASSESSMENT OF NONDISCRIMINATORY FEES ASSOCIATED WITH ENHANCED 911 SERVICE, UNIVERSAL SERVICE, OR TELECOMMUNICATIONS RELAY SERVICE WITH RESPECT TO SERVICES DESCRIBED IN SUBSECTIONS (4)(B) AND (4)(C);

(G) RESTRICT THE AUTHORITY OF A STATE AGENCY TO SPECIFY REQUIREMENTS FOR THE PURCHASE OF AN INTERNET PROTOCOL-ENABLED SERVICE; OR

(H) RESTRICT A COMMISSION REQUIREMENT THAT A COMPANY PROVIDER OF TELECOMMUNICATIONS SERVICES REGISTER AS A SERVICE PROVIDER.

(4) FOR THE PURPOSES OF THIS SECTION, "INTERNET PROTOCOL-ENABLED SERVICE" MEANS:

(A) BROADBAND INTERNET SERVICE AS DEFINED IN 90-1-602(1)(A);

(B) INTERCONNECTED VOICE-OVER INTERNET PROTOCOL SERVICE THAT ENABLES REAL-TIME, TWO-WAY VOICE COMMUNICATIONS ORIGINATING OR TERMINATING FROM A USER'S LOCATION USING INTERNET PROTOCOL OR A SUCCESSOR PROTOCOL, THAT ALLOWS USERS TO RECEIVE CALLS ORIGINATING ON THE PUBLIC SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED TELEPHONE NETWORK, AND THAT REQUIRES INTERNET PROTOCOL-COMPATIBLE CUSTOMER PREMISES EQUIPMENT;

(C) NON-INTERCONNECTED VOICE-OVER INTERNET PROTOCOL SERVICE THAT ENABLES REAL-TIME VOICE COMMUNICATIONS OVER INTERNET PROTOCOL OR ANY SUCCESSOR PROTOCOL AND THAT REQUIRES INTERNET PROTOCOL-COMPATIBLE CUSTOMER PREMISES EQUIPMENT BUT DOES NOT OTHERWISE FIT THE DESCRIPTION OF INTERCONNECTED VOICE-OVER INTERNET PROTOCOL SERVICE; OR

(D) ANY OTHER SERVICE, CAPABILITY, FUNCTION, OR APPLICATION THAT USES EXISTING INTERNET PROTOCOL OR ANY SUCCESSOR INTERNET PROTOCOL AND ENABLES AN END USER TO SEND OR RECEIVE A COMMUNICATION IN EXISTING INTERNET PROTOCOL FORMAT OR ANY SUCCESSOR INTERNET PROTOCOL FORMAT, REGARDLESS OF WHETHER THE COMMUNICATION IS VOICE, DATA, OR VIDEO.

NEW SECTION. Section 9. Repealer. The following sections of the Montana Code Annotated are repealed:

- 69-3-806. Prohibition against cross-subsidization.
- 69-3-807. Regulation of rates and charges.
- 69-3-808. Forbearance of rate regulation to facilitate competition.
- 69-3-809. Alternative forms of regulation.
- 69-3-810. New service -- withdrawal of services.
- 69-3-821. Examination of books and records.

- 1 69-3-841. Universal service policies.
- 2 69-3-842. Universal service fund established -- purpose.
- 3 69-3-843. Fund administrator -- commission rulemaking authority.
- 4 69-3-844. Contributions to fund.
- 5 69-3-845. Payments from fund -- costs.
- 6 69-3-846. Discounts for schools, libraries, and health care providers.
- 7 69-3-870. Performance assurance state special revenue account -- statutory appropriation.
- 8 69-3-901. Definitions.
- 9 69-3-902. Rate regulation of small telecommunications provider.
- 10 69-3-903. Notice of rate increase or decrease.
- 11 69-3-904. Commission review and determination of rate increases or decreases.
- 12 69-3-906. Petition for review of proposed rate increase or decrease.
- 13 69-3-907. Proposed increase or decrease effective unless requisite petitions received by commission.
- 14 69-3-910. Regulatory flexibility upon petition by small telecommunications provider.

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16 NEW SECTION. SECTION 10. CODIFICATION INSTRUCTION. [SECTION 8] IS INTENDED TO BE CODIFIED AS AN
17 INTEGRAL PART OF TITLE 69, CHAPTER 3, PART 8, AND THE PROVISIONS OF TITLE 69, CHAPTER 3, PART 8, APPLY TO
18 [SECTION 8].

19

20 COORDINATION SECTION. SECTION 11. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 51
21 AND [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH CONTAIN A SECTION THAT AMENDS 69-3-805, THEN [SECTION 7
22 OF THIS ACT], AMENDING 69-3-805, IS VOID.

23

24 NEW SECTION. Section 12. Effective date. [This act] is effective on passage and approval.

25 - END -