

SENATE FILE NO. SF0080

Telecommunications-exclusive contracts.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to telecommunications; providing
2 restrictions on political subdivisions entering exclusive
3 telecommunications services contracts; providing
4 exceptions; providing for a complaint process; and
5 providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 37-15-413 is created to read:

10

11 **37-15-413. Limitation on authority of political**
12 **subdivision to enter exclusive agreement for provision of**
13 **telecommunications service.**

14

15 (a) Except as provided in subsections (b) through (d)
16 of this section, before the governing body of any city or

1 town or other political subdivision of this state shall
2 provide for the construction, maintenance or operation of
3 any telecommunications service by entering into an
4 exclusive franchise, partnership, joint venture, contract,
5 resale agreement or any other exclusive agreement with any
6 party regarding telecommunications service, the city, town
7 or other political subdivision shall:

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9 (i) Determine, after notice and opportunity for
10 a public hearing, that no private provider of the
11 telecommunications service is currently providing the
12 service anywhere within the boundaries of the city, town or
13 political subdivision;

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15 (ii) Have submitted a written request to all
16 incumbent providers of telecommunications services within
17 the boundaries of the city, town or political subdivision
18 for provision of the same quality and grade of
19 telecommunications service within the same time frame and
20 at the same consumer prices proposed under the exclusive
21 contract;

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23 (iii) Determine, after notice and opportunity
24 for a public hearing that the incumbent telecommunications

1 service providers have not agreed within ninety (90) days
2 of the receipt of the request submitted pursuant to
3 paragraph (ii) of this subsection to provide the same
4 quality and grade of service within the same time frame and
5 at the same consumer prices as proposed under the exclusive
6 contract, or if the provider has agreed, that the provider
7 has not commenced providing or constructing facilities to
8 provide the service in the manner agreed upon; and

9
10 (iv) Limit the term of any exclusive agreement
11 under this section to not more than six (6) years.

12
13 (b) The governing body of a city or town or other
14 political subdivision shall allow the nondiscriminatory,
15 nonexclusive and competitively neutral use of its rights-
16 of-way including its poles, conduits, ducts or similar
17 support structures by any telecommunications company and
18 nothing in this section shall be construed to the contrary.

19
20 (c) Nothing in this section shall restrict the
21 governing body of a city or town, or other political
22 subdivision, from providing a telecommunications service or
23 facility:

1 (i) For its own use;

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3 (ii) For 911, E-911 or other emergency services;

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5 (iii) For medical or educational purposes; or

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7 (iv) To students by an educational institution.

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9 (d) Nothing in this section shall be construed to
10 restrict the governing body of a city or town or other
11 political subdivision, from providing a telecommunications
12 service to a party within the geographic area in which the
13 city, town or political subdivision operates as a
14 telecommunications utility. Any city, town or political
15 subdivision providing a telecommunications service under
16 this subsection shall:

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18 (i) Provide the telecommunications service on a
19 nondiscriminatory, nonexclusive and competitively neutral
20 basis; and

21

22 (ii) Provide the telecommunications service at a
23 price which covers cost, including imputed costs that the

1 city, town or political subdivision would incur if it were
2 a for-profit telecommunications company.

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4 (e) Any person may complain to the commission, and
5 the commission may on its own motion initiate an
6 investigation, concerning any alleged violation of this
7 section by a city, town or political subdivision, subject
8 to the following:

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10 (i) If the commission finds that a city, town or
11 political subdivision has violated this section, or finds
12 that any rule, action or order of a city, town or political
13 subdivision is anticompetitive or otherwise violates this
14 section, the commission shall notify the city, town or
15 political subdivision of the violation. The city, town or
16 political subdivision shall cure the anticompetitive
17 behavior within ninety (90) days following mailing of
18 notice by the commission; and

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20 (ii) If the city, town or political subdivision
21 does not cure the anticompetitive behavior within ninety
22 (90) days, the commission shall commence a contested case
23 hearing on the complaint, governed by the Wyoming
24 Administrative Procedure Act, W.S. 16-3-101 et seq. If,

1 following the hearing, the commission finds that the city,
2 town or political subdivision has violated this section,
3 the commission shall prohibit the city, town or political
4 subdivision from providing any telecommunications service
5 until the violation of this section is remedied.

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7 (f) This section does not apply to any contract
8 entered into prior to July 1, 2007.

9

10 **Section 2.** This act is effective July 1, 2007.

11

12 (END)