

HOUSE BILL NO. 641
INTRODUCED BY HAINES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NONDISCRIMINATORY PAYMENT OF INTERCARRIER COMPENSATION; DEFINING "INTEREXCHANGE SERVICES", "ORIGINATING CARRIER", "TERMINATING CARRIER", AND "TRANSITING CARRIER"; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 69-3-803, MCA."

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

Section 1. Section 69-3-803, MCA, is amended to read:

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

- (1) "Commission" means the public service commission.
- (2) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.
- (3) "Fund" means the universal service fund established in 69-3-842.
- (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.
- (5) (A) "Interexchange services" means telecommunications services, including but not limited to all inter-LATA and all intra-LATA toll traffic, originating in one wireline local calling area and terminating in another wireline local calling area.
 - (B) THE TERM DOES NOT INCLUDE SERVICES PROVIDED BY A TRANSITING CARRIER.
- (6) "Originating carrier" means a telecommunications carrier from whose network telecommunications traffic originates.
- ~~(5)~~(7) "Private telecommunications service" means a system, including the construction, maintenance, or operation of the system, for the provision of telecommunications service or any portion of the service, by a person or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and

subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the outstanding voting shares.

~~(6)~~(8) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and transport of communications originating and terminating in this state and nonvoice-grade access and transport if intended to be converted to or from voice-grade access and transport.

(b) ~~The~~ Except as provided in [section 2], the term does not include the provision of terminal equipment used to originate or terminate the regulated service, private telecommunications service, one-way transmission of television signals, cellular communication, or provision of radio paging or mobile radio services.

~~(7)~~(9) "Retail revenue" means the gross Montana revenue from telecommunications services that originate or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of telecommunications services to another telecommunications services provider that uses the telecommunications services to provide telecommunications services to the ultimate retail consumer who originates or terminates the transmission.

~~(8)~~(10) "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.

~~(9)~~(11) "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.

~~(10)~~(12) (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.

(13) "Terminating carrier" means a telecommunications carrier upon whose network telecommunications traffic terminates.

(14) "Transiting carrier" means a telecommunications carrier that transports traffic from an originating carrier to a terminating carrier."

NEW SECTION. Section 2. Interexchange services -- nondiscriminatory intercarrier compensation

-- billing records -- rulemaking. (1) AN ORIGINATING CARRIER OF INTEREXCHANGE SERVICES SHALL TRANSMIT WITH THE ORIGINATING CARRIER'S TELECOMMUNICATIONS TRAFFIC INFORMATION NECESSARY TO ENABLE THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE THE ORIGINATING CARRIER FOR THE TERMINATION OF THE INTEREXCHANGE SERVICES. Any provider of interexchange services in Montana shall terminate interexchange services with local exchange carriers by means of facilities that enable the TERMINATING CARRIER OR local exchange carrier TO RECEIVE INFORMATION FROM THE ORIGINATING CARRIER IN ORDER to identify and measure this terminating telecommunications traffic originated by any other telecommunications carriers. Local exchange carriers must have access to the facilities at either the access tandem or host end office in order to identify, measure, and appropriately charge for traffic originated by the provider of interexchange services ~~or by other carriers.~~

(2) Wireless originated telecommunications delivered to a local exchange carrier network, either directly or through an intermediary transport provider, must be by means of facilities capable of allowing the terminating carrier to identify, measure, and appropriately charge for the telecommunications traffic originated by any wireless carrier.

(3) A transiting carrier is required to provide billing records to the ~~commission~~ TERMINATING CARRIER upon request. ~~The commission shall establish by rule the reasonable cost of providing the billing records, and the~~ THE cost of providing the records must be borne by the originating carrier.

(4) AN ORIGINATING CARRIER THAT DELIVERS LOCAL TRAFFIC TO A TERMINATING CARRIER, DIRECTLY OR INDIRECTLY THROUGH A TRANSITING CARRIER, SHALL, UPON REQUEST OF THE TERMINATING CARRIER, ENTER INTO AN INTERCONNECTION AGREEMENT WITH THE TERMINATING CARRIER, AS PROVIDED IN 69-3-831 THROUGH 69-3-839.

(5) IF AN ORIGINATING CARRIER REFUSES TO NEGOTIATE AN INTERCONNECTION AGREEMENT AS PROVIDED IN SUBSECTION (4), A TERMINATING CARRIER MAY:

(A) REFUSE TO TERMINATE TRAFFIC DELIVERED BY THE ORIGINATING CARRIER; OR

(B) FILE A COMPLAINT WITH THE COMMISSION. THE COMMISSION MAY ORDER COMPENSATION TO THE TERMINATING CARRIER FOR THE TERMINATING SERVICES AT THE SAME RATE CHARGED BY THE TERMINATING CARRIER TO

OTHER ORIGINATING CARRIERS.

~~(4)~~(6) The commission may adopt rules for the implementation of this section. The rules must provide for the expedited resolution of complaints filed pertaining to the provisions of this section. The rules must define the terms "inter-LATA", "intra-LATA", "access tandem", and "host end office" in accordance with commonly accepted industry usage.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 69, chapter 3, part 8, and the provisions of Title 69, chapter 3, part 8, apply to [section 2].

NEW SECTION. **Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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