

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~~" CERTAIN TERMS; PROVIDING RULEMAKING AUTHORITY; ~~AND~~ AMENDING SECTION 69-3-803, MCA; AND PROVIDING AN EFFECTIVE DATE."

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) "COMMERCIAL MOBILE RADIO SERVICE" MEANS COMMERCIAL MOBILE RADIO SERVICE AS DEFINED IN 47 CFR 20.9.

~~(1)~~(2) "Commission" means the public service commission.

~~(2)~~(3) "Eligible telecommunications carrier" means a telecommunications provider designated by the commission under 69-3-840.

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

~~(4)~~(5) "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) "LOCAL TELECOMMUNICATIONS" MEANS:

(A) TELECOMMUNICATIONS ORIGINATING IN A WIRELINE LOCAL CALLING AREA, INCLUDING EXTENDED AREA SERVICE AREAS, AND TERMINATING IN THE SAME WIRELINE LOCAL CALLING AREA OR EXTENDED AREA SERVICE AREA; OR

(B) COMMERCIAL MOBILE RADIO SERVICE THAT ORIGINATES FROM OR TERMINATES TO A COMMERCIAL MOBILE

RADIO SERVICE PROVIDER WITHIN THE SAME MAJOR TRADING AREA AS DEFINED IN 47 CFR 24.202(A).

(7) "NONLOCAL TELECOMMUNICATIONS" MEANS:

(A) WIRELINE TELECOMMUNICATIONS TRAFFIC CARRIED BY EITHER AN INTERLOCAL ACCESS TRANSPORT AREA CARRIER OR AN INTRALOCAL ACCESS TRANSPORT AREA TOLL PROVIDER THAT ORIGINATES IN ONE WIRELINE LOCAL CALLING AREA AND TERMINATES IN ANOTHER WIRELINE LOCAL CALLING AREA; OR

(B) COMMERCIAL MOBILE RADIO SERVICE THAT ORIGINATES IN A MAJOR TRADING AREA AND TERMINATES IN A DIFFERENT MAJOR TRADING AREA, AS DEFINED IN 47 CFR 24.202(A).

(6)(8) "Originating carrier" means a telecommunications carrier from whose network A CUSTOMER ORIGINATES telecommunications traffic originates.

(5)(7)(9) "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)(10) (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)(11) "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)(12) "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)(13)~~ "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)(14)~~ (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)(15)~~ "Terminating carrier" means a telecommunications carrier upon whose network telecommunications traffic terminates.

~~(16)~~ (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.

~~(14)(17)~~ "Transiting carrier" means a telecommunications carrier OR CARRIERS that transports TRANSPORT TRANSIT traffic from an originating carrier to a terminating carrier AND THAT DOES NOT ORIGINATE OR TERMINATE TELECOMMUNICATIONS TRAFFIC."

NEW SECTION. Section 2. ~~Interexchange services -- nondiscriminatory~~ NONDISCRIMINATORY intercarrier compensation -- billing records -- ENFORCEMENT -- rulemaking. (1) AN ORIGINATING CARRIER OF INTEREXCHANGE SERVICES LOCAL TELECOMMUNICATIONS SERVICE 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.~~ LOCAL TELECOMMUNICATIONS SERVICE.

(2) A PROVIDER OF INTRALOCAL ACCESS TRANSPORT AREA TOLL SERVICES OR ANY OTHER CARRIER THAT PROVIDES NONLOCAL TELECOMMUNICATIONS SERVICES IN MONTANA SHALL TRANSMIT WITH ITS TELECOMMUNICATIONS TRAFFIC INFORMATION NECESSARY TO ENABLE THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE FOR THE TERMINATION OF THE TELECOMMUNICATIONS TRAFFIC.

(3) A TRANSITING CARRIER SHALL DELIVER TELECOMMUNICATIONS TRAFFIC TO TERMINATING CARRIERS BY MEANS OF FACILITIES THAT ENABLE THE TERMINATING CARRIER TO RECEIVE FROM THE ORIGINATING CARRIER ANY AND ALL INFORMATION THAT THE ORIGINATING CARRIER TRANSMITS WITH ITS TELECOMMUNICATIONS TRAFFIC THAT ENABLES THE TERMINATING CARRIER TO IDENTIFY, MEASURE, AND APPROPRIATELY CHARGE THE ORIGINATING CARRIER OR THE INTERLOCAL ACCESS TRANSPORT AREA CARRIER OR INTRALOCAL ACCESS TRANSPORT AREA TOLL PROVIDER OF NONLOCAL TELECOMMUNICATIONS TRAFFIC FOR THE TERMINATION OF ITS TELECOMMUNICATIONS TRAFFIC.

~~(3)(4) A transiting carrier is required to provide billing records FOR ITS TRANSIT TRAFFIC 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. THE TRANSITING CARRIER SHALL PROVIDE BILLING RECORDS PURSUANT TO EXISTING POLICIES AND AGREEMENTS UNTIL THE COMMISSION ADOPTS RULES PURSUANT TO SUBSECTION (7).~~

~~(4)(5) AN ORIGINATING CARRIER~~ A LOCAL EXCHANGE CARRIER OR COMMERCIAL MOBILE RADIO SERVICES PROVIDER THAT DELIVERS LOCAL TELECOMMUNICATIONS TRAFFIC TO A TERMINATING CARRIER, DIRECTLY OR INDIRECTLY THROUGH A TRANSITING CARRIER, SHALL, UPON REQUEST OF THE TERMINATING CARRIER, ENTER INTO NEGOTIATE AN INTERCONNECTION AGREEMENT WITH THE TERMINATING CARRIER, AS PROVIDED IN 69-3-831 THROUGH 69-3-839. THE INTERCONNECTION AGREEMENT MUST INCLUDE RATES, TERMS, AND CONDITIONS FOR RECIPROCAL COMPENSATION FOR THE TRANSPORT AND TERMINATION OF LOCAL TELECOMMUNICATIONS TRAFFIC.

~~——— (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.~~

(6) A TELECOMMUNICATIONS CARRIER REGISTERED TO PROVIDE TELECOMMUNICATIONS SERVICES IN MONTANA PURSUANT TO 69-3-805 MAY FILE A COMPLAINT WITH THE COMMISSION REQUESTING ENFORCEMENT OF THIS SECTION, INCLUDING ENFORCEMENT OF AN AGREEMENT APPROVED BY THE COMMISSION UNDER 69-3-839. UPON THE FILING OF A COMPLAINT, THE COMMISSION MAY AUTHORIZE THE TERMINATING CARRIER TO REFUSE TO TERMINATE TRAFFIC FROM THE ORIGINATING CARRIER OR THE COMMISSION MAY AUTHORIZE INTERIM PAYMENTS. THE COMMISSION MAY ORDER COMPENSATION TO THE TERMINATING CARRIER AND MAY ORDER OTHER APPROPRIATE RELIEF.

~~(4)(6)(7) The commission may SHALL 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~~ IDENTIFY WHAT TYPE OF TRANSIT RECORDS ARE AVAILABLE AND WHAT THE COST OF THE TRANSIT RECORDS SHOULD BE AND MUST DETERMINE WHICH PARTY IS RESPONSIBLE FOR THE PAYMENT OF DETAILED CALL RECORDS TO THE TRANSITING CARRIER.

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. SAVING CLAUSE. [THIS ACT] DOES NOT AFFECT RIGHTS AND DUTIES THAT MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE [THE EFFECTIVE DATE OF THIS ACT].

NEW SECTION. Section 5. 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.

NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2003.

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