

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0872.01 Duane Gall

HOUSE BILL 10-1281

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HOUSE SPONSORSHIP

Casso,

SENATE SPONSORSHIP

Spence,

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House Committees

Transportation & Energy

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE DEREGULATION OF TELECOMMUNICATIONS SERVICE  
102 IN AREAS WHERE SUFFICIENT MARKET COMPETITION EXISTS.

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**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>.)*

Under existing law, the Colorado public utilities commission (PUC) may relax the regulation of basic telecommunications services upon a finding that, due to increased competition, market forces will keep prices reasonable and service available to customers. The bill specifies that the availability of services through wireless, cable, and

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.*

voice-over-internet-protocol (VoIP) providers constitutes competition to basic telecommunications services and applicable market forces. Also, if an incumbent local exchange provider has lost 33% of its retail switched access lines since December 31, 2001, the bill requires the PUC to determine that market forces are sufficient to justify more flexible regulation of the provision of basic service in the incumbent local exchange provider's local service area.

The bill also requires that, if basic service is reclassified to allow more flexible regulation, any remaining regulatory requirements will be competitively neutral.

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and determines that Colorado's telecommunications consumers now  
4 have many choices besides the traditional "land line". More and more  
5 Coloradans are using wireless telecommunications services, cable  
6 telephony services, and voice-over-internet-protocol (VoIP) services as  
7 a daily means to engage in voice communications, and they see these  
8 services as alternatives to the service provided by their incumbent land  
9 line local exchange provider.

10           (2) Therefore, the general assembly declares that Colorado's  
11 telecommunications statutes should reflect the current realities of the  
12 marketplace by removing outdated regulation meant for a specific  
13 technology and adopted during an era when no other technologies or  
14 services were available.

15           **SECTION 2.** 40-15-207, Colorado Revised Statutes, is amended  
16 to read:

17           **40-15-207. Reclassification of services and products.**

18 (1) (a) Notwithstanding any other provision of this title, upon its own  
19 motion or upon application by any person, the commission shall regulate,  
20 pursuant to part 3 of this article, specific telecommunications services

1 regulated under this part 2 upon a finding that there is effective  
2 competition in the relevant market for such service and that such  
3 regulation under part 3 of this article will promote the public interest and  
4 the provision of adequate and reliable service at just and reasonable rates.

5 (b) In determining whether effective competition for a specific  
6 telecommunications service exists, the commission shall make findings,  
7 after notice and opportunity for hearing, and shall issue an order based  
8 upon consideration of the following factors:

9 (I) The extent of economic, technological, or other barriers to  
10 market entry and exit;

11 (II) The number of other providers offering similar services in the  
12 ~~relevant geographic~~ area SERVED BY THE INCUMBENT LOCAL EXCHANGE  
13 PROVIDER;

14 (III) The ability of consumers in the ~~relevant geographic~~ area  
15 SERVED BY THE INCUMBENT LOCAL EXCHANGE PROVIDER to obtain ~~the~~  
16 SIMILAR service from other providers at reasonable and comparable rates,  
17 on comparable terms, and under comparable conditions. FOR PURPOSES  
18 OF THIS SUBPARAGRAPH (III) AND SUBPARAGRAPH (II) OF THIS PARAGRAPH  
19 (b), SERVICES OFFERED BY PROVIDERS OF WIRELESS  
20 TELECOMMUNICATIONS SERVICE, CABLE TELEPHONY, AND  
21 VOICE-OVER-INTERNET-PROTOCOL SERVICE SHALL BE CONSIDERED  
22 SIMILAR SERVICES TO LOCAL AND LONG-DISTANCE SERVICES PROVIDED  
23 OVER LAND LINE FACILITIES.

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 (d) (I) IN ANY PROCEEDING UNDER PARAGRAPH (a) OF THIS  
3 SUBSECTION (1), IF THE NUMBER OF RETAIL LOCAL EXCHANGE SWITCHED  
4 ACCESS LINES SERVED BY AN INCUMBENT LOCAL EXCHANGE PROVIDER IN  
5 COLORADO IS LESS THAN SIXTY-SEVEN PERCENT OF THE NUMBER OF  
6 RETAIL LOCAL EXCHANGE SWITCHED ACCESS LINES SERVED BY THE  
7 INCUMBENT LOCAL EXCHANGE PROVIDER IN COLORADO AS OF DECEMBER  
8 31, 2001, THE COMMISSION SHALL DETERMINE THAT ALL RETAIL SERVICES  
9 THROUGHOUT THE INCUMBENT LOCAL EXCHANGE PROVIDER'S SERVICE  
10 AREA SHALL BE REGULATED PURSUANT TO PART 3 OF THIS ARTICLE.

11 (II) THE COMMISSION SHALL MAKE THE DETERMINATION REQUIRED  
12 BY THIS PARAGRAPH (d) UPON THE REQUEST OF A PROVIDER SERVING THE  
13 AREA, USING THE COMMISSION'S EXISTING STAFF RESOURCES, WITHIN ONE  
14 HUNDRED TWENTY DAYS AFTER THE REQUEST. IF THE COMMISSION  
15 DETERMINES THAT ONE OR MORE SERVICES SHOULD BE REGULATED  
16 PURSUANT TO PART 3 OF THIS ARTICLE, IT SHALL ELIMINATE OR MODIFY  
17 REGULATORY REQUIREMENTS FOR OTHER PROVIDERS OF SIMILAR SERVICES  
18 IN THE RELEVANT MARKETS DEEMED SUBJECT TO EFFECTIVE COMPETITION  
19 SO AS TO CREATE COMPETITIVELY NEUTRAL REGULATORY STANDARDS  
20 AND REQUIREMENTS FOR ALL SUCH PROVIDERS.

21 **SECTION 3. Act subject to petition - effective date.** This act  
22 shall take effect at 12:01 a.m. on the day following the expiration of the  
23 ninety-day period after final adjournment of the general assembly (August  
24 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a  
25 referendum petition is filed pursuant to section 1 (3) of article V of the  
26 state constitution against this act or an item, section, or part of this act  
27 within such period, then the act, item, section, or part shall not take effect

1 unless approved by the people at the general election to be held in  
2 November 2010 and shall take effect on the date of the official  
3 declaration of the vote thereon by the governor.