

TITLE 16
CHAPTER 9
TELEPHONE SERVICE

ARTICLE 2
TELECOMMUNICATIONS FOR THE COMMUNICATIONS IMPAIRED

16-9-201. Definitions.

(a) As used in this act, unless the context requires otherwise, the following definitions apply:

(i) "Access line" means the facility that allows the customer of a local exchange company or radio communications service provider to access the local or toll network with the exception of dedicated facilities such as a private line;

(ii) "Committee" means the committee on telecommunications services for the communications impaired established by W.S. 16-9-202;

(iii) "Communications impaired" means hearing impaired or speech impaired individuals as defined by the Americans With Disabilities Act of 1990, Title IV, Section 401;

(iv) "Division" means the division of vocational rehabilitation within the department of workforce services;

(v) "Local exchange company" means a telecommunications company that provides telephone access lines to members of the general public who are its customers;

(vi) "Message relay system" means a statewide service through which a communications impaired person, using specialized telecommunications equipment, may send and receive messages to and from a noncommunications impaired person whose telephone is not equipped with specialized telecommunications equipment and through which a noncommunications impaired person may, by using voice communication, send and receive messages to and from a communications impaired person;

(vii) "Program" means the program established by W.S. 16-9-205;

(viii) "Radio communications service provider" means a telecommunications company that provides radio communication service, radio paging or cellular service to members of the general public who are its customers;

(ix) "Specialized telecommunications equipment" means a device that, when connected to a telephone, enables or assists a person who is communications impaired to communicate with another person utilizing the telephone network. The term most commonly refers, but is not limited to, telecommunications devices for the deaf (TDDs);

(x) "This act" means W.S. 16-9-201 through 16-9-210.

16-9-202. Committee on telecommunications services for the communications impaired; composition; allocation.

(a) There is created a committee on telecommunications services for the communications impaired.

(b) The committee shall consist of seven (7) members. The membership shall be appointed by the governor and shall consist of one (1) member from each appointment district as provided by W.S. 9-1-218. Not more than four (4) members shall be of the same political party.

(c) The committee is allocated to the division for administrative purposes.

16-9-203. Term of office; vacancies; officers; bylaws; compensation; conflict of interest.

(a) Each member of the committee shall serve a term of three (3) years, except that the governor shall appoint two (2) of the initial members to serve terms of one (1) year and two (2) of the initial members to serve terms of two (2) years.

(b) A vacancy on the committee shall be filled in the same manner as the original appointment.

(c) The committee shall choose a chairperson from among its members.

(d) The committee shall establish its own operating procedures.

(e) Members of the committee shall receive no compensation, but those members defined in W.S. 16-9-202(b)(i) and (ii) [§ 16-9-202(b)] shall be reimbursed under W.S. 9-3-102 and 9-3-103 for travel and per diem expenses incurred in the performance of their duties.

(f) In order to avoid a potential conflict of interest, members of the committee representing a potential provider of the message relay system or specialized telecommunications equipment shall abstain from any vote or decision of the committee regarding the award of contracts for those services or equipment by the division.

16-9-204. Power and duties of the committee.

(a) The committee shall advise the division as to the administration of the program provided for in W.S. 16-9-205. In fulfilling this duty, the committee shall:

(i) Review and recommend policies and procedures governing administration of the program and ensure the program is in compliance with any applicable state and federal laws or regulations;

- (ii) Assist the state in obtaining certification from the federal communications commission that the program is in compliance with such rules and regulations;
- (iii) Review the division's budget request for administration of services under the program;
- (iv) Monitor the expenditures of funds for the program;
- (v) Monitor the quality of the program and the satisfaction of the users;
- (vi) Perform any other duties necessary to properly advise the division as to the administration of the program.

16-9-205. Program established; purpose; responsibilities of the division of vocational rehabilitation.

(a) The division in consultation with the committee, shall establish and administer a program to provide specialized telecommunications equipment and message relay services to persons who are communications impaired. The purpose of the program shall be to:

(i) Furnish specialized telecommunications equipment to meet the needs of persons who are communications impaired and who might be otherwise disadvantaged in their ability to obtain such equipment; and

(ii) Provide a message relay system to allow persons who are communications impaired to communicate via the telecommunications network with noncommunications impaired persons.

(b) In carrying out its responsibilities, the division shall:

(i) Develop rules, policies and procedures, as may be necessary, to govern administration of the program and ensure the program is in compliance with any applicable state and federal laws or regulations;

(ii) As part of its request for proposals, include provision for an equipment distribution program and utilize a preexisting state agency means test, if available, to determine eligibility for participation in the specialized telecommunications equipment program;

(iii) Implement the message relay system as described in subsection (a)(ii) of this section within one (1) year following the effective date of this act and, to the extent funds generated by the special fee specified in W.S. 16-9-209 are available, implement the specialized telecommunications equipment distribution program described in subsection (a)(i) of this section within two (2) years following the effective date of this act;

(iv) Perform any other duties necessary to properly oversee administration of the program.

16-9-206. Message relay system; requirements.

(a) The division, after consultation with the committee, shall contract with a qualified provider to design and implement a message relay system that fulfills the purpose described in W.S. 16-9-205. The division shall award the contract for this service to the provider based upon price, the interests of the communications impaired community in having access to a high-quality and technologically advanced telecommunications system, and all other factors listed in the committee's request for proposal including proposals for a specialized telecommunications equipment distribution program.

(b) Except in cases of willful misconduct, gross negligence or bad faith, neither the committee nor the provider of the message relay system, nor the employees of the provider of the message relay system, shall be liable for any claims, actions, damages or causes of action arising out of or resulting from the establishment, participation in, or operation of the message relay system.

(c) The division shall require, under the terms of the contract, that:

(i) The system be available statewide for operation seven (7) days a week, twenty-four (24) hours per day, including holidays, for both interstate and intrastate calls;

(ii) The system relay all messages promptly and accurately;

(iii) The system maintain the privacy of persons using the system;

(iv) The provider preserve the confidentiality of all telephone communications; and

(v) The system conform to any standards established by applicable state or federal laws or regulations.

16-9-207. Gifts and grants.

The committee may accept contributions, gifts and grants, in money or otherwise, to the program established in W.S. 16-9-205. Monetary contributions, gifts and grants must be deposited in the fund created by W.S. 16-9-208.

16-9-208. Fund for telecommunications services for the communications impaired.

(a) There is created an account for telecommunications services for the communications impaired in the earmarked revenue fund. The account shall consist of:

(i) All monetary contributions, gifts and grants received by the committee as provided in W.S. 16-9-207; and

(ii) All special fee charges billed and collected pursuant to W.S. 16-9-209.

(b) The money in the account is appropriated to the division to implement this act.

16-9-209. Special fee.

(a) The committee shall annually determine the amount of a special fee, not to exceed twenty-five cents (\$.25) per access line per month, based upon available cost data and other information, that will cover the costs of providing intrastate message relay service as provided in Section 401 of the Americans With Disabilities Act of 1990, including the cost of implementing and administering this act. Funding for the interstate portion of the Wyoming relay system shall be provided in a manner consistent with rules and orders adopted by the federal communications commission in implementing the Americans With Disabilities Act.

(b) The committee shall notify the public service commission, in writing, of the amount of the monthly access line special fee determined by the committee. The public service commission shall provide for the inclusion and identification of the special fee on each monthly billing for service from each local exchange company and radio communications service provider.

(c) Each customer of a local exchange company or radio communications service provider shall be liable for payment to the local exchange company or radio communications service provider of any special fee imposed pursuant to this act. The local exchange company or radio communications service provider shall not be liable for any uncollected charge, nor shall the company have an obligation to take any legal action to enforce the collection of any charge that is unpaid by its customers.

NOTE: Effective 08/01/2002, this section will read as follows:

(c) Each customer of a local exchange company or radio communications service provider shall be liable for payment to the local exchange company or radio communications service provider of any special fee imposed pursuant to this act. In the case of a customer of a radio communications service provider, any fee imposed by this act shall be imposed only if the customer's place of primary use is in this state as provided by the Mobile Telecommunications Sourcing Act, 4 U.S.C. §§ 116 through 126. The provisions of the Mobile Telecommunications Sourcing Act shall apply to this subsection. The local exchange company or radio communications service provider shall not be liable for any uncollected charge, nor shall the company have an obligation to take any legal action to enforce the collection of any charge that is unpaid by its customers.

(d) No customer of a local exchange company shall be required to pay the special fee on more than one hundred (100) access lines per account and no customer of a radio communications service provider shall be required to pay the special fee on more than one hundred (100) radio communication service numbers per account in Wyoming.

(e) Except as provided in subsection (g) of this section, all special fees billed and collected by a local exchange company or radio communications service provider shall be transmitted to the state treasurer not later than the last day of the month following the end of the month in

which the special fee is collected. All special fees received by the state treasurer shall be deposited in the account established by W.S. 16-9-208.

(f) All special fees billed and collected by a local exchange company or radio communications service provider shall not be considered revenues of the local exchange company or radio communications service provider and are not subject to tax under W.S. 39-15-101 through 39-16-311.

(g) Each local exchange company or radio communications service provider may deduct and retain one percent (1%) of the total charges billed and collected each month to cover administrative expenses in complying with the requirements of subsections (b) through (e) of this section.

16-9-210. Records; audit.

(a) Each local exchange company or radio communications service provider shall maintain a record of the special fees billed and collected pursuant to W.S. 16-9-209 for a period of three (3) years from the date of billing or collection, respectively.

(b) The committee may require an audit, at division expense, of the records of each local exchange company or radio communications service provider to assure proper accounting of all special fees billed and collected pursuant to W.S. 16-9-209.