

77 ISO - 675

HOUSE BILL 403

Title:

AN ACT to create W.S. 37-310 through 37-324 relating to cable television systems; providing for regulation by the public service commission; providing rulemaking authority; providing for severability; providing for penalties; and providing for an effective date.

HOUSE BILL 403

Sponsored by:

Brace M. M. M. M.

[illegible]

CONTINUED ON BACK

1977

STATE OF WYOMING

77LSO-675-01

HOUSE BILL NO. 403

Regulation of cable television.

Sponsored by: Representative McMILLAN



A BILL

for

1 AN ACT to create W.S. 37-310 through 37-324 relating to
2 cable television systems; providing for regulation by the
3 public service commission; providing rulemaking authority;
4 providing for severability; providing for penalties; and
5 providing for an effective date.

6 Be It Enacted by the Legislature of the State of Wyoming:

7 Section 1. W.S. 37-310 through 37-324 are created to
8 read:

9 CHAPTER 11

10 COMMUNITY TELEVISION SYSTEMS

11 37-310. Short title. This act may be cited as the
12 "Wyoming Community Antenna Television System Act".

13 37-311. Definitions.

14 (a) As used in this act:

HB 403

1 (i) "Commission" means the Wyoming public
2 service commission;

3 (ii) "Community antenna television company" or
4 "CATV company" means any person or organization which
5 owns, controls, operates or manages a community antenna
6 television system excluding a telephone, telegraph or
7 electric utility regulated by the commission in a case
8 where it merely leases or rents to a CATV company wires or
9 cables for the redistribution of television signals to or
10 toward subscribers of the CATV company and a telephone or
11 telegraph utility regulated by the commission in a case
12 where it merely provides communication channel service to
13 a CATV company for the redistribution of television
14 signals to or toward subscribers of the CATV company under
15 published tariffs filed with the commission;

16 (iii) "Community antenna television system" or
17 "CATV system" means any facility within Wyoming which is
18 constructed in whole or in part in, on, under or over any
19 highway or other public place and which is operated to
20 perform for hire the service of receiving and amplifying
21 the signals broadcast by one (1) or more television sta-
22 tions and redistributing signals by wire, cable or other
23 means to members of the public who subscribe to this

HB 403

1 service excluding any system which serves fewer than fifty
2 (50) subscribers and any system which serves only the
3 residents of one (1) or more apartment dwellings under
4 common ownership, control or management, and commercial
5 establishments located on the premises of these dwellings;

6 (iv) "Facility" means all real property,
7 antennae, poles, wires, cables, conduits, amplifiers,
8 instruments, appliances, fixtures and other personal prop-
9 erty used by a CATV company in providing service to its
10 subscribers;

11 (v) "Highway" means every street, road, alley, thor-
12 oughfare, way or place of any kind used by the public or
13 open to the use of the public as a matter of right for the
14 purpose of vehicular traffic;

15 (vi) "This act" means W.S. 37-310 through 37-324.

16 37-312. Certificate of public convenience and neces-
17 sity.

18 (a) No person or organization shall begin the con-
19 struction, extension or operation of a CATV system or
20 acquire ownership or control thereof without first obtain-
21 ing from the commission a certificate that the present or
22 future public convenience and necessity requires or will

HB 403

1 require construction, extension, operation or acquisition.
2 The commission may by rule and regulation exempt a CATV
3 company from the certificate requirement when its tempo-
4 rary acts or operations do not require the issuance of a
5 certificate in the public interest, or its extensions of
6 or additions to its CATV system are within its certifi-
7 cated territory or an adjacent uncertificated territory
8 and the extensions or additions will promote the prompt
9 availability of service to prospective subscribers and at
10 the same time prevent unnecessary and uneconomic dupli-
11 cation of CATV facilities between two (2) or more persons
12 or organizations.

13 (b) The application for a certificate of public
14 convenience and necessity shall be in writing, shall
15 include a description of the territory in which the CATV
16 system is proposed to be constructed, extended, operated
17 or acquired, shall contain other information as the
18 commission may prescribe, and shall be accompanied by the
19 fee specified in W.S. 37-24.

20 (c) Upon the filing of an application and the pay-
21 ment of the fee prescribed, the commission shall set the
22 time and place for a hearing and shall notify the chief
23 executive officer of any municipality, telephone or tele-
24 graph utility or CATV company in the affected territory

HB403

1 and other parties in interest as the commission deems
2 necessary. The commission shall also publish notice of
3 the application at least fourteen (14) days prior to the
4 hearing in a newspaper of general circulation in the
5 affected territory. The hearing shall be in conformity
6 with the Wyoming Administrative Procedure Act.

7 (d) After the hearing, the commission may issue to
8 the applicant a certificate of public convenience and
9 necessity in a form to be prescribed by it, may refuse to
10 issue a certificate, may issue a certificate for only par-
11 tial exercise of the privilege sought or may attach to the
12 exercise of the right granted by the certificate terms,
13 limitations and conditions which the public interest may
14 require. The certificate shall include a description of
15 the territory in which the CATV system is to be con-
16 structed, extended, operated or acquired.

17 (e) In determining whether a certificate will be
18 issued the commission shall consider, among other things,
19 the public need for the proposed service or acquisition,
20 the suitability of the applicant, the financial responsi-
21 bility of the applicant, and the ability of the applicant
22 to perform efficiently the service for which authority is
23 requested.

HB403

1 37-313. Certification of CATV companies operating on
2 effective date of act. The commission shall issue a
3 certificate of public convenience and necessity to any
4 CATV company lawfully engaged in the construction, exten-
5 sion or operation of its CATV system on the effective date
6 of this act, for the construction, extension or operation
7 then being conducted, without requiring proof that public
8 convenience and necessity will be served by construction,
9 extension or operation and without further proceedings, if
10 application for a certificate is filed with the commission
11 within ninety (90) days. The application shall contain
12 the information and shall be accompanied by the fee pre-
13 scribed in W.S. 37-312. The construction, extension or
14 operation of a CATV system may be lawfully continued pend-
15 ing the filing of an application and the determination
16 unless the commission orders otherwise. An application
17 for a certificate which is untimely shall be determined in
18 accordance with the procedure prescribed in W.S. 37-312.

19 37-314. Transfer of certificate. No certificate of
20 public convenience and necessity may be transferred,
21 assigned or encumbered unless the transaction is first
22 approved by the commission.

23 37-315. Revocation or change of certificate. The
24 commission may, after affording the holder a hearing,

HB 403

1 revoke, suspend or alter any certificate of public conven-
2 ience and necessity for the willful violation of any
3 provision of this act or the rules, regulations or orders
4 of the commission made under the authority of this act or
5 for other reasonable cause.

6 37-316. General jurisdiction of commission; rules
7 and regulations.

8 (a) The commission shall supervise and regulate
9 every CATV company operating within Wyoming and its prop-
10 erty, easements, property rights, equipment, facilities,
11 contracts, certificates and franchises so far as may be
12 necessary to carry out the purposes of this act, and shall
13 do all things which are necessary or convenient in the
14 exercise of this power and jurisdiction.

15 (b) The commission shall review and determine the
16 feasibility of any contract between a political subdivi-
17 sion of the state and a CATV company.

18 (c) The commission shall adopt and enforce reason-
19 able rules, regulations and orders necessary with respect
20 to rates, charges and classifications, issuance of certif-
21 icates, territory of operation, abandonment or suspension
22 of service, adequacy of service, prevention or elimination
23 of unjust discrimination between subscribers, financial

HB 103

1 responsibility, insurance covering personal injury and
2 property damage, uniform system of accounts, records,
3 reports, safety of operation and equipment, and to other-
4 wise accomplish the purposes of this act and to implement
5 its provisions. All rules and regulations shall be
6 adopted in compliance with the Wyoming Administrative
7 Procedure Act.

8 (d) The commission may, after affording an oppor-
9 tunity for hearing, order a CATV company to construct and
10 operate any reasonable extension of its existing CATV
11 system within the certificated territory, or to make any
12 reasonable repair or improvement of or addition to its
13 system.

14 (e) The commission shall from time to time visit the
15 places of business and other premises and examine the
16 records and facilities of all CATV companies to ascertain
17 if all rules, regulations and orders of the commission
18 have been complied with, and may examine all officers,
19 agents and employees of such CATV companies, and all other
20 persons, under oath, and compel the production of papers
21 and the attendance of witnesses to obtain the information
22 necessary for administering the provisions of this act.

23 (f) The commission may institute all proceedings and

HB403

1 investigations, hear all complaints, issue all process and
2 orders, and render all decisions necessary to enforce the
3 provisions of this act or the rules, regulations and
4 orders adopted under it.

5 (g) The commission or other aggrieved party may
6 institute, or intervene as a party in, any action in any
7 court of competent jurisdiction seeking mandamus, injunc-
8 tive or other relief to compel compliance with any provi-
9 sion of this act or of any rule, regulation or order
10 adopted under it, or restrain or otherwise prevent or pro-
11 hibit any illegal or unauthorized conduct in connection
12 therewith.

13 37-317. Rates. The commission shall prescribe just
14 and reasonable rates, charges and classifications for the
15 services rendered by a CATV company to subscribers, and
16 the tariffs shall be in such form and shall be filed and
17 published in such manner as the commission prescribes, and
18 are subject to change in such manner as the commission
19 prescribes. The commission, in the exercise of its power
20 to prescribe just and reasonable rates, charges and
21 classifications, may use such standards, formulae, cri-
22 teria or methods as the commission may determine in order
23 to enable the CATV company, under honest, economic and
24 efficient management, to render the service and derive a

H.B. 403

1 reasonable profit therefrom.

2 37-318. Duties of CATV companies.

3 (a) Each CATV company, and other person and orga-
4 nization providing any service, equipment or facilities
5 thereto, shall provide safe and adequate service, equip-
6 ment and facilities for the operation of its CATV system.

7 (b) No CATV company shall demand or receive a
8 greater or less or different compensation for providing
9 CATV service than the rates and charges specified in the
10 tariff in effect at the time.

11 (c) All rates, charges and classifications for the
12 service rendered by a CATV company shall be just and
13 reasonable, and any rate, charge or classification that is
14 unjust or unreasonable is unlawful. No CATV company shall
15 make any unjust or unreasonable discrimination in rates,
16 charges, classifications, practices, regulations, facili-
17 ties or services in connection with like service, directly
18 or indirectly, by any means or device, or make or give any
19 undue or unreasonable preference or advantage to any par-
20 ticular person, class of persons or locality, or subject
21 any particular person, class of persons or locality to any
22 undue or unreasonable prejudice or disadvantage.

1 (d) Every CATV company and other person and orga-
2 nization shall obey and comply with every rule, regulation
3 and order adopted by the commission under the provisions
4 of this act.

5 39-319. Abandonment. No CATV company may abandon
6 any part of its system or other property necessary or
7 useful in the performance of its duties to the public, or
8 discontinue or temporarily suspend any part of the service
9 which it is rendering to the public without first obtain-
10 ing the approval of the commission. In granting approval
11 the commission may impose such terms, conditions or
12 requirements as in its judgment are necessary to protect
13 the public interest.

14 37-320. Eminent domain; highway use; pole attach-
15 ments; commission approval.

16 (a) Upon obtaining the prior approval of the commis-
17 sion, a CATV company may acquire through eminent domain
18 proceedings the lands, property and rights of any char-
19 acter whatsoever necessary to construct, extend, improve,
20 alter, maintain or operate its CATV system. Under these
21 circumstances, the CATV company is entitled to pursue the
22 same eminent domain procedure which is available to the
23 telephone, telegraph or electric public utilities which

HB 403

1 are subject to the jurisdiction of the commission.

2 (b) Upon obtaining the prior approval of the commis-
3 sion, a CATV company may construct and maintain the wires
4 and cables necessary to its business upon, under or over
5 any highway and may erect and maintain the necessary fix-
6 tures, including poles and posts, for sustaining wires and
7 cables. Wires, cables and fixtures shall not be so placed
8 or constructed as to unreasonably inconvenience present or
9 future public travel on the highway or use thereof by
10 public utilities or other persons or organizations having
11 rights therein.

12 (c) If the commission finds that public convenience
13 and necessity require the use by a public utility of the
14 wires, cables, conduits, poles or other equipment on, over
15 or under any highway belonging to another public utility
16 and that this use will not result in irreparable injury to
17 the owner or other users of such equipment or any substan-
18 tial detriment to the service, and that the public utili-
19 ties have failed to agree upon the use or the terms and
20 conditions or compensation for it, the commission may
21 order that the use be permitted, and prescribe a reason-
22 able compensation and reasonable terms and conditions for
23 the joint use. If such use is ordered, the public utility
24 to whom the use is permitted is liable to the owner or

1 users of the equipment for damage resulting therefrom to
2 the property of the owner or other users. "Public util-
3 ity" as used in this subsection includes a CATV company
4 and any public utility subject to the jurisdiction of the
5 commission.

6 37-321. Lease or rental of certain CATV facilities
7 or provision of channel service. Upon the prior approval
8 of the commission, any person or organization may contract
9 to lease or rent facilities to a CATV company or to pro-
10 vide it with communication channel service for the redis-
11 tribution of television signals to the subscribers of the
12 CATV company. Any contract which is in effect on the
13 effective date of this act and which will be in effect for
14 a period of more than ninety (90) days thereafter shall be
15 submitted to the commission for approval within ninety
16 (90) days after the effective date of this act, and if the
17 contract is disapproved it is void.

18 37-322. Approval of securities.

19 (a) No CATV company may issue any stock, bond, note
20 or other evidence of debt payable more than twelve (12)
21 months after issuance without first obtaining the approval
22 of the commission. In determining whether a proposed
23 issuance of securities will be approved, the commission

HB 403

1 shall take into consideration whether the issuance is
2 reasonably required for the acquisition of property or the
3 construction, extension or improvement of the applicant's
4 CATV system, or for the improvement or maintenance of its
5 service, or for the discharge or refunding of its obli-
6 gations, or for other purposes consistent with the public
7 interest. Commission approval, when granted, shall be
8 evidenced by a written order authorizing the issue, the
9 principal amount of the issue and the purpose and use for
10 which the issue is authorized.

11 (b) If an agency is empowered by another state or
12 jurisdiction to regulate and control the amount and char-
13 acter of securities to be issued by a CATV company oper-
14 ating a CATV system both in this state and in another
15 state or jurisdiction, then the commission may agree with
16 the agency of the other state or jurisdiction on the issue
17 of securities by the CATV company and may approve an issue
18 jointly with that agency.

19 37-323. Approval of mergers. No CATV company oper-
20 ating or managing a CATV system shall combine, merge or
21 consolidate with, or acquire control of, another organiza-
22 tion without first obtaining the approval of the commis-
23 sion, which shall be granted only after an investigation
24 and finding that the proposed combination, merger, con-

HB403

1 consolidation or acquisition is in the public interest.

37-324. Penalty. Any person or the officer, agent or employee of any organization who willfully violates any provision of this act or of any rule, regulation or order adopted thereunder, or who willfully procures, aids or abets any violation of a provision is guilty of a misdemeanor, and shall be punished by a fine of up to five hundred dollars (\$500.00), imprisonment up to ninety (90) days, or both.

Section 2. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

16 Section 3. This act is effective May 27, 1977.

17 (END)

HB403

FISCAL NOTE

Fiscal Note No. 596
 Requester Representative McMillan

L.S.O.	Draft
675	L1
Bill No.	Jt. Res. No.

Part I. Fiscal Data:

SHORT TITLE OF BILL: <u>Regulation of cable television</u>	STATUTORY REFERENCE Nos. <u>W.S.37-310/324</u>	NAME OF FUND <u>Earmarked Revenue</u>
AGENCY TITLE: <u>Public Service Commission</u>		
SOURCE OF APPROPRIATION/REVENUE <u>Not applicable</u>		New Program () Change in Existing Program () Local Government Impact ()

If more than one appropriation is involved, show overall effect below, but show breakdown by appropriation and fiscal year on a separate page. Round to nearest hundred dollars.

EFFECT OF PROPOSAL	FISCAL PERIODS		
	BIENNIAL INCREASE OR (-) DECREASE		
	First Biennial	Second Biennial	Third Biennial
Salaries & Number of Personnel	\$ 1/2 14,861	1/2 14,861	1/2 14,861
Supporting Expenses	19,160	19,160	19,160
Permanent Property			
Aids to Localities			
Other			
ESTIMATED TOTAL COST	\$ 34,021	34,021	34,021
GENERAL FUND			
FEDERAL FUND			
OTHER			
ESTIMATED TOTAL REVENUE	\$		

Part II. Explain in a clear and concise manner what effect this measure will have on the costs and revenues of state government. Specify the source of funds for appropriations. Include effect on the current biennium and also the long-range fiscal effect, if any. Show how you arrived at the estimate. Use attached sheet and any additional sheets which you may need.

The preceding and following information was furnished by the Public Service Commission. Financing from the earmarked revenue fund will depend upon whether cable television units are assessed in the manner utility companies are, which is the purpose of financing the utility division. The above figures are based upon the existing 20 cable television companies now in existence in Wyoming.

Date <u>1/24/77</u>	Agency <u>Public Service Commission</u>	Authorized Representative
Date	Legislative Auditor Clearance	

HB403