

HOUSE BILL NO. HB0280

Public utilities-test year for rate filings.

Sponsored by: Representative(s) Latta

A BILL

for

1 AN ACT relating to public utilities; authorizing and  
2 defining test periods for rate setting as specified;  
3 conforming provisions; and providing for an effective  
4 date.

5

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

7

8 **Section 1.** W.S. 37-3-106 and 37-15-408 are amended to  
9 read:

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11 **37-3-106. Temporary suspension of rates; burden of**  
12 **proof; notice of rate changes; bonding; refunding of**  
13 **amounts collected in excess of final rates.**

14

15 (a) At any hearing as provided in this act involving  
16 an increase in rates or charges sought by a public utility,  
17 the burden of proof to show that the increased rate or

1 charge is just and reasonable shall be upon the utility. A  
2 public utility, at its option, may use any one (1) of the  
3 following twelve (12) month periods as its test year for  
4 rate filings with the commission:

5  
6 (i) An historic test year, which may be either  
7 the latest twelve (12) month period for which actual data  
8 is available at the time of filing new schedules;

9  
10 (ii) A current test year, which may be any  
11 consecutive twelve (12) month period ending not later than  
12 twelve (12) months after the date new schedules are filed.  
13 A public utility selecting a current test year also shall  
14 file data for the twelve (12) month period immediately  
15 preceding the current test year selected and that period  
16 shall be the historical period for the public utility; or

17  
18 (iii) A future test year, which shall be any  
19 consecutive twelve (12) month period ending no later than  
20 twenty-four (24) months after the date new schedules are  
21 filed. A public utility selecting a future test year shall  
22 file data for the twelve (12) consecutive months  
23 immediately preceding the future test year and that period  
24 shall be the current period for the public utility.

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2 (b) A public utility selecting a current or future  
3 test year shall present the following information:

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5 (i) A comparison of forecast data to historical  
6 period data to demonstrate the reliability and accuracy of  
7 the public utility's forecast, including a comparison of  
8 the prior years' forecast or budgeted data to actual data  
9 for those periods;

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11 (ii) A statement that the public utility's  
12 forecast is reasonable, reliable and was made in good faith  
13 and that all basic assumptions used in making or supporting  
14 the forecast are reasonable, evaluated, identified and  
15 justified to allow the commission to test the  
16 appropriateness of the forecast; and

17

18 (iii) A statement that the accounting treatment  
19 that has been applied to anticipated events and  
20 transactions in the forecast is the same as the accounting  
21 treatment to be applied in recording the events once they  
22 have occurred.

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1       (c) The public utility may update its filing for  
2 material changes as actual data becomes available up to  
3 thirty (30) days before the hearing. Except for good cause  
4 shown, a public utility may not submit more than one (1)  
5 updated filing before the hearing. In the absence of an  
6 updated filing by the public utility, the commission may  
7 require a public utility to update its filing when the  
8 commission staff introduces evidence that a material change  
9 has occurred.

10  
11       (d) A public utility may propose estimated or  
12 calculated adjustments to the selected historical or  
13 current test year for all known and measurable changes in  
14 operating results as measured in the test year. The  
15 adjustments shall be made in the same context and format as  
16 the information was provided in the original filing. The  
17 adjustments may reflect material changes in plant  
18 investment, operating revenues, expenses and capital  
19 structure if the changes occurred during the selected  
20 historical or current test year or are reasonably certain  
21 to occur subsequent to the selected test year within twelve  
22 (12) months from the date of the rate filing.

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1       ~~(b)~~(e) Unless the commission otherwise orders, no  
2 public utility shall make any change in any rate which has  
3 been duly established except after thirty (30) days notice  
4 to the commission, which notice shall plainly state the  
5 changes proposed to be made in the rates then in force, and  
6 the time when the changed rates will go into effect. The  
7 utility shall also give such notice of the proposed changes  
8 to other interested persons as the commission in its  
9 discretion may direct. All proposed changes shall be shown  
10 by filing new tariffs which shall be kept open to public  
11 inspection. When the commission establishes any rate which  
12 is innovative in form or substance, takes into  
13 consideration competitive marketplace elements or provides  
14 for incentives to a public utility, the rate may contain  
15 any provision for subsequent notice or the absence thereof  
16 which is supported by the public interest.

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18       ~~(e)~~(f) Whenever there is filed with the commission by  
19 any public utility any application or tariff proposing a  
20 new rate or rates, the commission may, either upon  
21 complaint or upon its own initiative, initiate an  
22 investigation, hearing, or both, concerning the lawfulness  
23 of such rate or rates. Pending its decision thereon, the  
24 commission may suspend such rate or rates, before they

1 become effective but not for a longer initial period than  
2 six (6) months beyond the time when such rate or rates  
3 would otherwise go into effect. If the commission shall  
4 thereafter find that a longer time will be required, the  
5 commission may extend the period of suspension for an  
6 additional period or periods not exceeding in the  
7 aggregate, three (3) months.

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9 ~~(d)~~ (g) The public utility may file an application  
10 requesting, and the commission may order such suspended  
11 rate or rates or any portion thereof to be put into effect  
12 at any time, in which event the commission may require a  
13 bond which shall secure a refund to persons entitled  
14 thereto of the amount, if any, finally determined to be  
15 excessive. The application and the bond in terms, amount  
16 and sureties shall be subject to the commission's approval.

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18 ~~(e)~~ (h) As ordered by the commission, the utility  
19 shall promptly refund to persons entitled thereto all  
20 amounts collected by it in excess of the final rates  
21 approved by the commission plus reasonable interest at a  
22 rate to be determined by the commission, and as ordered by  
23 the commission and upon such time and conditions as the

1 commission shall specify, shall promptly pay all amounts  
2 not so refunded to the general fund of Wyoming.

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4 ~~(f)~~(j) In any case involving a proposed change in  
5 rates, the commission may permit the utility to make  
6 effective without suspension only that portion of the  
7 change which the commission may determine to be proper  
8 under the circumstances.

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10 **37-15-408. Applicability of existing law.**

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12 W.S. 37-1-104 through 37-1-106, 37-2-102, 37-2-104,  
13 37-2-106 through 37-2-109, 37-2-113, 37-2-115 through  
14 37-2-118, 37-2-124, 37-2-125, 37-2-130, 37-2-203,  
15 37-2-205(a), 37-2-209, 37-2-214 through 37-2-216, 37-2-218,  
16 37-2-301 through 37-2-306, 37-3-114, 37-4-101 through  
17 37-4-104, 37-12-120 through 37-12-130, 37-12-201,  
18 37-12-202, 37-12-204 through 37-12-209, 37-12-211 through  
19 37-12-213, 37-12-301 through 37-12-304 and 37-13-101  
20 through 37-13-137, inclusive, unless in conflict with other  
21 provisions of this chapter, are applicable to  
22 telecommunications companies and telecommunication  
23 companies shall be considered public utilities for the  
24 purposes of those provisions. For purposes of this chapter

1 W.S. ~~37-3-106(b) and (c)~~ 37-3-106(e) and (f) shall apply to  
2 telecommunications companies which are rate of return  
3 regulated.

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5 **Section 2.** This act is effective July 1, 2003.

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(END)