

1 SENATE BILL 115

2 **44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,**
3 **2000**

4 INTRODUCED BY

5 Pauline B.Eisenstadt
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11 AN ACT

12 RELATING TO TELECOMMUNICATIONS; ESTABLISHING PROHIBITIONS AND
13 REQUIREMENTS TO PROTECT THE RIGHTS OF TELECOMMUNICATIONS
14 CONSUMERS; PROVIDING PENALTIES; DECLARING AN EMERGENCY.
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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. SHORT TITLE.--This act may be cited as the
18 "Telecommunications Consumer Bill of Rights Act".
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20 Section 2. LEGISLATIVE FINDINGS AND STATEMENT OF
21 PURPOSE.--The legislature finds that there is an enormous
22 disparity of bargaining power between telecommunications
23 providers and consumers. That disparity sometimes results in
24 abusive practices on the part of the providers. The existing
25 powers of the public regulation commission are insufficient
to deal with those abusive practices. The purpose of the
Telecommunications Consumer Bill of Rights Act is to protect
telecommunications consumers from those abusive practices.

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1 Section 3. DEFINITIONS.--As used in the
2 Telecommunications Consumer Bill of Rights Act:

3 A. "commission" means the public regulation
4 commission;

5 B. "consumer" means any purchaser of a public
6 telecommunications service;

7 C. "private telecommunications service" means a
8 system, including the construction, maintenance or operation
9 thereof, for the provision of telecommunications service, or
10 any portion of that service, by a person for the sole and
11 exclusive use of that person and not for resale, directly or
12 indirectly. For purposes of this definition, the person that
13 may use such service includes any affiliates of the person if
14 at least eighty percent of the assets or voting stock of the
15 affiliates is owned by the person. If any other person uses
16 the telecommunications service, whether for hire or not, the
17 private telecommunications service is a public
18 telecommunications service;

19 D. "public telecommunications service" means the
20 offering or the providing of the transmission between or
21 among points specified by the user and originating and
22 terminating in this state regardless of actual call routing
23 of telecommunications information of the user's choosing,
24 without change in the form or content of the information as
25 sent and received, for a fee directly to the public, or to
such classes of users as to be effectively available directly
to the public, regardless of the infrastructure used.

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1 "Public telecommunications service" does not include the
2 provision of infrastructure or of terminal equipment used to
3 originate or terminate such service; private
4 telecommunications service; broadcast transmissions by radio,
5 television and satellite broadcast stations regulated by the
6 federal communications commission; or one-way cable
7 television service; and

8 E. "telecommunications provider" means a person
9 that provides any public telecommunications service,
10 regardless of the facilities used.

11 Section 4. CUSTOMER PROTECTIONS.--Not later than
12 October 1, 2000, the commission shall adopt rules that
13 establish minimum consumer protections applicable to all
14 telecommunications providers. These rules shall provide at a
15 minimum that each telecommunications provider shall:

16 A. provide each consumer with comprehensive
17 notification of all services, options, rates and restrictions
18 at the time the consumer places a service order with the
19 telecommunications provider;

20 B. cooperate with the commission in constructing a
21 generic rate display matrix for use by consumers in comparing
22 prices for public telecommunications offerings;

23 C. provide a consumer who places a verbal service
24 order with a written confirmation of the order within five
25 business days;

D. allow a consumer to cancel a service order for
any reason within fifteen business days of receiving written

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1 confirmation of the order from the telecommunications
2 provider;

3 E. regularly notify their consumers that they may,
4 upon request, receive at no charge a guide containing clear
5 and easily understandable descriptions of all service options
6 that are relevant to the public telecommunications services
7 provided to the consumer by the telecommunications provider,
8 and promptly provide the guide upon consumer request;

9 F. provide affected consumers with prior written
10 notice of changes in rates, terms or conditions of public
11 telecommunications services provided by the
12 telecommunications provider and allow affected consumers to
13 cancel the affected telecommunications service within fifteen
14 business days of receiving the notice;

15 G. not commit a deceptive, unfair or
16 unconscionable practice in connection with the provision of
17 public telecommunications services;

18 H. not initiate or cancel any consumer service
19 without the consumer's express authorization;

20 I. not retaliate against a consumer for any
21 complaint made by the consumer to the commission or any other
22 person, public or private;

23 J. not attempt to evade responsibility for a
24 consumer complaint or refer a dissatisfied consumer to
25 another telecommunications provider for resolution of a
problem that the telecommunications provider knows or should
reasonably know it has the responsibility for resolving;

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1 K. be primarily responsible for resolving consumer
2 problems with public telecommunications services that the
3 telecommunications provider provides, whether directly or on
4 a resale basis;

5 L. reasonably compensate consumers for poor public
6 telecommunications service quality; and

7 M. not disclose to any person, other than
8 employees of the telecommunications provider who have a need
9 to know such information in the course of providing public
10 telecommunications service, information about any consumer,
11 including the consumer's calling patterns, without the
12 express and affirmative consent of the consumer, except:

13 (1) information of the type generally
14 included in telephone directories;

15 (2) aggregate information from which the
16 identity of no consumer or small group of consumers can be
17 discerned; and

18 (3) information provided to law enforcement
19 agencies in connection with the performance of their duties.

20 Section 5. PENALTIES.--The commission may impose an
21 administrative fine pursuant to Section 63-7-23 NMSA 1978 on
22 a telecommunications provider for any act of omission that
23 results in a violation of the Telecommunications Consumer
24 Bill of Rights Act.

25 Section 6. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect
immediately.

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