

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 262

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

W. Ken Martinez

AN ACT

**RELATING TO TELECOMMUNICATIONS; REMOVING CERTAIN PROVISIONS
REGARDING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE
TO A PROVIDER OF TELECOMMUNICATIONS SERVICE; AMENDING A
SECTION OF THE NMSA 1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 63-9A-6 NMSA 1978 (being Laws 1985,
Chapter 242, Section 6, as amended) is amended to read:**

"63-9A-6. CERTIFICATE REQUIRED. --

**A. No public telecommunications service shall be
offered in this state except in accordance with the provisions
of the New Mexico Telecommunications Act.**

**B. No public telecommunications service shall be
offered within this state without the telecommunications
company first having obtained from the commission a**

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 certificate declaring that the operation is in the present or
2 future public convenience and necessity, unless the operation
3 is otherwise authorized by the New Mexico Telecommunications
4 Act.

5 C. The commission shall have full power and
6 authority to determine matters of public convenience and
7 necessity relating to the issuance of a certificate of public
8 convenience and necessity to a provider of public
9 telecommunications service; provided, however, that in keeping
10 with the purposes of the New Mexico Telecommunications Act,
11 the commission shall not deny an applicant a certificate on
12 the grounds of need if it is shown that the applicant
13 possesses adequate financial resources and technical
14 competency to provide the service. It shall be within the
15 discretion of the commission to determine when and upon what
16 conditions plant, equipment or services may be provided under
17 certificates of public convenience and necessity, by more than
18 one person, and the commission may attach to the exercise of
19 rights granted by the certificate such terms and conditions
20 as, in its judgment, the public convenience and necessity may
21 require or as otherwise authorized.

22 ~~[D.— Notwithstanding the provisions of Subsection C~~
23 ~~of this section, any telecommunications company with less than~~
24 ~~one hundred thousand access lines holding a certificate of~~
25 ~~public convenience and necessity to provide local exchange~~

. 135018. 1

underscored material = new
[bracketed material] = delete

1 ~~service to the public shall have the exclusive right to~~
2 ~~provide local exchange service within its certificated service~~
3 ~~territory and shall not be subject to competition in the~~
4 ~~provision of local exchange service in its certificated~~
5 ~~service territory unless the commission determines that public~~
6 ~~convenience and necessity require additional plant or~~
7 ~~equipment for the provision of local exchange service within~~
8 ~~the certificated service territory of the existing~~
9 ~~telecommunications company and a certificate of public~~
10 ~~convenience and necessity is granted pursuant to Subsection E~~
11 ~~of this section.~~

12 ~~E. In determining whether public convenience and~~
13 ~~necessity require an additional certificate to provide local~~
14 ~~exchange service in a certificated service territory, the~~
15 ~~commission shall, in a proceeding in which the~~
16 ~~telecommunications company certificated in the affected area~~
17 ~~is a party, consider and determine upon substantial evidence~~
18 ~~that the following conditions exist:~~

19 ~~(1) the existing telecommunications company~~
20 ~~is inadequate to meet the reasonable needs and convenience of~~
21 ~~the public;~~

22 ~~(2) the proposed second plant or equipment~~
23 ~~would eliminate such inadequacy;~~

24 ~~(3) it is economically feasible to operate~~
25 ~~the proposed second plant or equipment successfully and~~

underscored material = new
[bracketed material] = delete

1 ~~continuously for the furnishing of local exchange service;~~

2 ~~(4) the applicant for the second plant or~~
3 ~~equipment has sufficient financial resources to provide the~~
4 ~~proposed local exchange service properly and continuously;~~

5 ~~(5) the applicant for the second plant or~~
6 ~~equipment has competent and experienced management and~~
7 ~~personnel to provide the proposed local exchange service;~~

8 ~~(6) the applicant for the second plant or~~
9 ~~equipment is willing and able to conform to the constitution~~
10 ~~of New Mexico and laws of New Mexico and the rules and~~
11 ~~regulations of the commission;~~

12 ~~(7) the applicant for the second plant or~~
13 ~~equipment is in every respect willing and able to provide the~~
14 ~~proposed local exchange service properly; and~~

15 ~~(8) granting the additional certificate to~~
16 ~~the applicant shall not have a significant adverse impact on~~
17 ~~the existing telecommunications company.~~

18 ~~F.]~~ D. All certificates of public convenience and
19 necessity shall:

20 (1) continue in force, notwithstanding the
21 provisions of this section [~~63-9A-2 NMSA 1978~~]; and

22 (2) remain subject to all terms and
23 conditions imposed by statute or commission order at the time
24 of issuance or in connection with any subsequent amendment,
25 notwithstanding the provisions of [~~that~~] this section."

. 135018. 1

1 Section 2. EFFECTIVE DATE. -- The effective date of the
2 provisions of this act is July 1, 2001.

3 - 5 -

underscored material = new
[bracketed material] = delete

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25