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**HOUSE BILL 912**

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

**INTRODUCED BY**

**Luciano "Lucky" Varela**

**AN ACT**

**RELATING TO TELECOMMUNICATIONS; REQUIRING PUBLIC REGULATION  
COMMISSION APPROVAL OF CERTAIN CHANGE OF CONTROL TRANSACTIONS;  
ENACTING A NEW SECTION OF THE TELEPHONE AND TELEGRAPH COMPANY  
CERTIFICATION ACT.**

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

**Section 1. A new section of the Telephone and Telegraph  
Company Certification Act is enacted to read:**

**" [NEW MATERIAL] PRIOR APPROVAL OF COMMISSION REQUIRED OF  
CERTAIN CHANGE OF CONTROL TRANSACTIONS-- DEFINITIONS--  
PROCEDURES FOR OBTAINING APPROVAL. --**

**A. As used in this section:**

**(1) "change of control transaction" means an  
action taken by a telecommunications entity that has the  
effect of allowing or facilitating an acquisition,**

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1 consolidation, merger or other transaction involving another  
2 telecommunications entity that would alter the manner in which  
3 plant or property constituting an operating unit or system or  
4 any substantial part of either was controlled, held or owned;

5 (2) "public telecommunications service" means  
6 the transmission of signs, signals, writings, images, sounds,  
7 messages, data or other information of any nature by wire,  
8 radio, lightwaves or other electromagnetic means originating  
9 and terminating in this state regardless of actual call  
10 routing, but "public telecommunications service" does not  
11 include the provision of terminal equipment used to originate  
12 or terminate such service; private telecommunications service;  
13 broadcast transmissions by radio, television and satellite  
14 broadcast stations regulated by the federal communications  
15 commission; radio common carrier services, including mobile  
16 telephone service and radio paging; or one-way cable  
17 television service;

18 (3) "telecommunications company" means a  
19 person that provides public telecommunications service and a  
20 cellular service company as defined in Subsection B of Section  
21 63-9B-3 NMSA 1978; and

22 (4) "telecommunications entity" means a  
23 telephone company as defined in Section 63-9-2 NMSA 1978, a  
24 telecommunications company or a holding company, parent  
25 company, subsidiary or affiliate of a telephone company or a

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1 telecommunications company.

2 B. With the prior express authorization of the  
3 commission, but not otherwise:

4 (1) two or more telecommunications entities  
5 may acquire, consolidate or merge with each other;

6 (2) a person and a telecommunications entity  
7 may consolidate or merge with each other;

8 (3) stock of a telecommunications entity may  
9 be acquired by:

10 (a) a person who, prior to the  
11 acquisition of the stock, is a person subject to regulation by  
12 the commission or is classified as a telecommunications entity  
13 in any jurisdiction;

14 (b) a person who is or during the  
15 course of an acquisition covered by this section becomes  
16 subject to regulation by the commission or is classified as a  
17 telecommunications entity in any jurisdiction based on reasons  
18 other than solely the acquisition described in this  
19 subparagraph;

20 (c) a person associated, affiliated or  
21 acting in concert with a person subject to regulation by the  
22 commission or classified as a telecommunications entity in any  
23 jurisdiction for the purposes of an acquisition subject to the  
24 provisions of this section;

25 (d) a person associated, affiliated or

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1 acting in concert with a person described in Subparagraph (a),  
2 (b) or (c) of this paragraph; or

3 (e) a person who, during the course of  
4 an acquisition covered by this section, merges or consolidates  
5 with a person described in Subparagraph (a), (b) or (c) of  
6 this paragraph; or

7 (4) a telecommunications entity may sell,  
8 lease, rent, purchase or acquire a telecommunications entity's  
9 plant or property constituting part or all of an operating  
10 unit or system, but this paragraph does not require commission  
11 authorization for transactions in the ordinary course of  
12 business.

13 C. A change of control transaction undertaken  
14 without the prior express approval of the commission is void.

15 D. A telecommunications entity seeking approval of  
16 the commission as required by this section shall file written  
17 petition with the commission containing a concise statement of  
18 the proposed change of control transaction, the reasons for it  
19 and other information that may reasonably be required by the  
20 commission. The commission promptly shall investigate the  
21 statements in the petition and may require a hearing on the  
22 application in which case adequate notice of the hearing shall  
23 be prescribed by the commission. After considering the  
24 allegations of the petition, the benefits and fairness of the  
25 proposed transaction to the ratepayers and other matters

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1 deemed relevant by the commission, it shall approve or  
2 disapprove the application. It may impose requirements to  
3 further the benefits to the ratepayers as a condition of  
4 approval. "

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