

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 912

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

AN ACT

RELATING TO TELECOMMUNICATIONS; REQUIRING PUBLIC REGULATION
COMMISSION APPROVAL OF CERTAIN TELECOMMUNICATION ENTITY CHANGE
OF CONTROL ACTIONS; ENACTING A NEW SECTION OF THE NEW MEXICO
TELECOMMUNICATIONS ACT.

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

Section 1. A new section of the New Mexico
Telecommunications 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 an eligible telecommunications carrier that
has the effect of allowing or facilitating an acquisition,

1 consolidation, merger or other transaction that would alter
2 the manner in which a plant or property by which public
3 telecommunications service is provided or, any substantial
4 part thereof, was controlled, held or owned;

5 (2) "control" means direct or indirect
6 ownership of twenty percent or more of the voting securities
7 of an entity; and

8 (3) "eligible telecommunications carrier"
9 means a telecommunications company with one hundred thousand
10 or more lines in New Mexico that has been designated by the
11 commission as eligible to receive universal service support in
12 accordance with 47 USCA Section 254, or a person that
13 controls, or is controlled, by an eligible telecommunications
14 carrier.

15 B. With the prior express authorization of the
16 commission, but not otherwise:

17 (1) two or more eligible telecommunications
18 carriers may acquire, consolidate or merge with each other;

19 (2) a person and an eligible
20 telecommunications carrier may consolidate or merge with each
21 other;

22 (3) stock of an eligible telecommunications
23 carrier may be acquired by a person who will own twenty
24 percent or more of the voting securities of the eligible
25 telecommunications carrier; and

1 (4) an eligible telecommunications carrier
2 may sell, lease, rent, purchase or acquire a
3 telecommunications company's plant or property constituting
4 part or all of an operating unit or system, but this paragraph
5 does not require commission authorization for transactions in
6 the ordinary course of business.

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

9 D. A telecommunications entity seeking approval of
10 the commission as required by this section shall file written
11 petition with the commission containing a concise statement of
12 the proposed change of control transaction, the reasons for it
13 and other information that may reasonably be required by the
14 commission. The commission promptly shall investigate the
15 statements in the petition and may require a hearing on the
16 application, in which case adequate notice of the hearing
17 shall be prescribed by the commission. After considering the
18 allegations of the petition, the benefits and fairness of the
19 proposed transaction to the ratepayers and other matters
20 deemed relevant by the commission, it shall approve or
21 disapprove the application. The commission shall not approve
22 a change in control that will result in diminished service
23 quality to the customers of the eligible telecommunications
24 carrier. The provisions of this subsection do not diminish
25 the commission's authority to approve a change in

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1 circumstances affecting certificates of public convenience and
2 necessity.

3 E. The commission shall render its decision to
4 approve or disapprove a proposed change of control within
5 forty-five days of the date the petition is filed pursuant to
6 Subsection D of this section. If a decision is not rendered
7 within the stated time, the petition shall be deemed granted,
8 unless before the forty-fifth day the commission extends the
9 time an additional seventy-five days after finding that good
10 cause exists for an extension. "