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HOUSE BILL 17

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TELECOMMUNICATIONS; ENACTING A NEW SECTION OF THE
NEW MEXICO TELECOMMUNICATIONS ACT TO PERMIT THE ALLOCATION OF
RELOCATION COSTS TO TELECOMMUNICATIONS COMPANY CUSTOMERS.

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] ALLOCATION OF RELOCATION COSTS TO
CUSTOMERS--COMMISSION AUDIT.--

A. Notwithstanding any other provision of law,
telecommunications companies shall be entitled to recover from
their retail customers, without a request for a change in
rates, the actual costs incurred for the alteration, change,
moving or relocation of infrastructure or facilities requested
by the state or a political subdivision or instrumentality of

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1 the state. Thirty days prior to assessing retail customers a
2 fee to recover actual costs incurred for the alteration,
3 change, moving or relocation of infrastructure or facilities
4 requested by the state or a political subdivision or
5 instrumentality of the state, a telecommunications company
6 shall notify the commission in writing of its intent to impose
7 a fee on the company's retail customers as a separate line item
8 on the customer's bill. The notification to the commission
9 shall contain information regarding the total relocation costs
10 incurred by the project, the calculation of the fee, the time
11 period in which the fee will be recovered, the number of
12 customers affected and an affidavit stating that only actual
13 costs are being recovered and that reasonable efforts were made
14 to mitigate the relocation costs. The telecommunications
15 company may begin assessing the fee after the expiration of the
16 thirty-day notice provided to the commission.

17 B. Upon petition by an interested party or on its
18 own motion, the commission may conduct an investigation to
19 verify that all information has been provided and that the fee
20 intended to be imposed by a telecommunications company recovers
21 the actual costs incurred for the relocation of facilities and
22 that the telecommunications company engaged in all reasonable
23 efforts to mitigate the relocation costs. The commission shall
24 also determine that the time period for recovery of the fee and
25 the number of customers affected is reasonable. The commission

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1 shall complete its investigation within sixty days of the date
2 that a petition is filed or that the commission commences an
3 investigation on its own motion, whichever is earlier. If,
4 based on evidence presented at a hearing, the commission finds
5 that a telecommunications company is not recovering its actual
6 costs incurred, the commission may order modifications or
7 adjustments to a fee imposed pursuant to this section and to
8 any required customer credits so that the telecommunications
9 company may recover its actual costs.

10 C. As used in this section:

11 (1) "actual costs" includes all capital and
12 non-capital costs, not otherwise recoverable, incurred to
13 relocate infrastructure or facilities, as well as all costs
14 incurred to remove any infrastructure or facilities, up to a
15 maximum amount in any twelve-month period of one million
16 dollars (\$1,000,000); "actual costs" does not include the cost
17 of upgrading the facility being relocated; and

18 (2) "infrastructure or facilities" includes
19 infrastructure or facilities used to provide interstate and
20 intrastate services, including regulated, unregulated and
21 deregulated services."

22 **SECTION 2. APPLICABILITY.**--The provisions of this act
23 apply to costs incurred after July 1, 2011 to relocate
24 infrastructure or facilities as well as all costs incurred
25 after July 1, 2011 to remove any infrastructure or facilities.

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SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.