

1 SENATE BILL 185

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; MAKING AN APPROPRIATION;  
15 DECLARING AN EMERGENCY.  
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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 Section 1. SHORT TITLE.--This act may be cited as the  
20 "Telecommunications Consumer Bill of Rights Act".

21 Section 2. LEGISLATIVE FINDINGS AND STATEMENT OF  
22 PURPOSE.--The legislature finds that there is an enormous  
23 disparity of bargaining power between telecommunications  
24 providers and consumers. That disparity sometimes results in  
25 abusive practices on the part of the providers. The existing  
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

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1 telecommunications consumers from those abusive practices.

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

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

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

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

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

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

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

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

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

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

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

D. allow a consumer to cancel a service order for

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1 any reason within fifteen business days of receiving written  
2 confirmation of the order from the telecommunications  
3 provider;

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

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

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

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

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

24 J. not attempt to evade responsibility for a  
25 consumer complaint or refer a dissatisfied consumer to  
another telecommunications provider for resolution of a  
problem that the telecommunications provider knows or should

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1 reasonably know it has the responsibility for resolving;

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

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

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

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

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

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

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

Section 6. APPROPRIATION.--Thirty thousand dollars  
(\$30,000) is appropriated from the general fund to the public

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1 regulation commission for expenditure in fiscal year 2001 for  
2 the purposes of carrying out the provisions of the  
3 Telecommunications Consumer Bill of Rights Act. Any  
4 unexpended or unencumbered balance remaining at the end of  
5 fiscal year 2001 shall revert to the general fund.

6 Section 7. EMERGENCY.--It is necessary for the public  
7 peace, health and safety that this act take effect  
8 immediately.

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