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F I S C A L I M P A C T R E P O R T

SPONSOR:	SJC	DATE TYPED:	02/10/00	HB	
SHORT TITLE:	Telecommunications Regulatory Amendments			SB	CS/123/aSFC
			ANALYST:	Valenzuela	

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	**FY01**	**FY00**	**FY01**		
	$ 250.0			Recurring	General Fund
	$ 400.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

LFC Files

Public Regulation Commission (PRC)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment simply replaces the $762.0 general fund appropriation with a $250.0 appropriation to address startup costs for the new division and for PRC to complete the rate assessments of incumbent local exchange carriers (ILECs) and a $400.0 appropriation to establish an annual operating budget for the new division. This level of operating budget would support 5.0 FTE. However, the bill does not define an authorized FTE level.

Synopsis of the SJC Substitute

The Senate Judiciary Committee Substitute for Senate Bill 123 makes two significant changes to the original bill. First, it establishes administrative fines for intercarrier disputes of not more than $100.0 a day. This fine applies to carrier-to-carrier interconnection agreement, carrier-to-carrier wholesale tariff, or commission regulation or order, and may be imposed every day for which the violation occurs. The bill states that the fine should be commensurate with the nature and severity of the violation. Second, the bill now appropriates $762.0 from the general fund rather than the $500.0 in the original bill.

The bill also extends the dates for which the PRC would be required to complete its review of existing rates for public telecommunications services offered by incumbent local exchange carriers by three months, and sets a deadline of April 1, 2001 for the PRC to create a schedule detailing when implicit subsidies are to be eliminated. Finally, the bill contains an emergency clause.

Synopsis of Original Bill

Sections 1 through 3 amend the Public Regulation Commission Act [8-8-1 to 8-8-21 NMSA 1978] in the following manner:

- Create a new division, the Telecommunications Complaints Division, whose duties would be to review, investigate, and make recommendations on complaints concerning interconnection between carriers and alleged violations of rules for public telecommunication services.

- Makes a statement that any competitive regulatory framework in New Mexico should be developed to ensure greater investment in the telecommunications infrastructure in the state, improved service quality and operations and lower prices.

Section 4 amends the New Mexico Telecommunications Act [63-9A-1 to 63-9A-20 NMSA 1978] to accomplish two primary goals: (1) requires the Public Regulation Commission (PRC) to transition from a rate-of-return regulatory framework to a price-cap regulatory framework and 2) requires the PRC to identify and make explicit "implicit subsidies" that currently are co-mingled into basic telecommunication rates with a schedule to eliminate these subsidies to be replaced with the state rural universal service fund or through a revenue-neutral rate readjustment. Section 4 further identifies the following requirements for the PRC action:

- Establish quality of service standards;
- Ensure adequate investment in the telecommunications infrastructure;
- Promote availability and deployment of high-speed data services;
- Ensure accessibility of interconnection by competitive local exchange carriers (CLECs);
- Establish an expedited regulatory process for cases pending before the PRC.

Finally, Section 5 makes a general fund appropriation of $500.0 to the PRC for fiscal year 2001 to carry out the provisions identified above.

<u>Significant Issues</u>

When PRC was created through a constitutional amendment, the Legislature formed a "Consumer Relations Division" specifically to handle complaints and to promote outreach and educational efforts on behalf of the Commission. Under the LFC recommendation, the Consumer Relations Division is funded for $638.0 general fund for fiscal year 2001. While Senate Bill 123 is unclear on this point, the creation of a new division could be duplicative of the existing PRC organizational structure. The problem is that the bill does not distinguish specifically between the type of complaints the new division will handle: consumer or carrier or telecommunication provider. Normally, complaints between carriers are litigated contract cases. SB 123 would only apply to carriers with more than 50,000 lines, i.e., U.S. West and Valor Communications, the company which purchased GTE's lines in New Mexico.

SB 123, eventually, would eliminate the implicit subsidies which are used to achieve a level of parity in rates throughout the state, and suggests using the Universal Service Fund to replace the subsidies. However, according to telecommunications experts, basic residential rates will invariably increase as a result of the elimination of subsidies. Additionally, the PRC has argued that the Universal Service Fund is not adequate to replace the subsidies. Two final issues with Senate Bill 123 are that the bill places the decision making responsibility for telecommunication policy with the PRC instead of the Legislature and the bill does not provide disincentives for carriers who do not conform to the goals identified in the bill.

FISCAL IMPLICATIONS

SB 123 makes a general fund appropriation of $500.0 to the PRC to cover the costs to implement the provisions of the bill. As a rough estimate, this level of funding would provide for approximately 10.0 full-time equivalents (FTE) and operating expenses. However, it would not address the provisions of the bill to complete rate cases for incumbent local exchange carriers (ILECs) or to transition to a price-cap regulatory framework. The bill does not identify or authorize new FTE.

MFV/gm