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SENATE BILL 672

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Phil A. Griego

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NEW MEXICO TELECOMMUNICATIONS ACT TO PROVIDE FOR COMPETITION AMONG TELECOMMUNICATIONS PROVIDERS.

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

Section 1. Section 63-9A-3 NMSA 1978 (being Laws 1985, Chapter 242, Section 3, as amended) is amended to read:

"63-9A-3. DEFINITIONS.--As used in the New Mexico Telecommunications Act:

A. "affordable rates" means local exchange service rates that promote universal service within a local exchange service area, giving consideration to the economic conditions and costs to provide service in such area;

B. "basic business local exchange service" means a primary, flat-rated, business, local, one-party, access line

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1 service;

2 C. "basic residential local exchange service" means
3 a primary, flat-rated, residence, local, one-party, access line
4 service;

5 ~~[B.]~~ D. "cable television service" means the one-
6 way transmission to subscribers of video programming or other
7 programming service and subscriber interaction, if any, that is
8 required for the selection of such video programming or other
9 programming service;

10 ~~[C.]~~ E. "commission" means the public regulation
11 commi ssi on;

12 ~~[D.] "competitive telecommunications service" means~~
13 ~~a service that has been determined to be subject to effective~~
14 ~~competition pursuant to Section 63-9A-8 NMSA 1978;~~

15 ~~E. "effective competition" means that the customers~~
16 ~~of the service have reasonably available and comparable~~
17 ~~alternatives to the service;]~~

18 F. "fund" means the state rural universal service
19 fund;

20 G. "incumbent local exchange carrier" means a
21 person or an affiliate of a person that:

22 (1) was authorized to provide local exchange
23 service on February 8, 1996 or a successor or assignee of the
24 person or affiliate; or

25 (2) a carrier that will be treated as an

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1 incumbent local exchange carrier if the federal communications
2 commission determines that the provider or class or category of
3 carrier shall be treated as an incumbent local exchange carrier
4 pursuant to 47 U. S. C. 251(H) (2);

5 [G.] H. "local exchange area" means a geographic
6 area encompassing one or more local communities, as described
7 in maps, tariffs or rate schedules filed with the commission,
8 where local exchange rates apply;

9 [H.] I. "local exchange service" means the
10 transmission of two-way interactive switched voice
11 communications furnished by a telecommunications company within
12 a local exchange area;

13 [I.] J. "message telecommunications service" means
14 telecommunications service between local exchange areas within
15 the state for which charges are made on a per-unit basis, not
16 including wide-area telecommunications service, or its
17 equivalent, or individually negotiated contracts for
18 telecommunications services;

19 [J.] K. "mid-size carrier" means a
20 telecommunications company with more than fifty thousand but
21 less than three hundred seventy-five thousand access lines in
22 the state;

23 [K. ~~"noncompetitive telecommunications service"~~
24 ~~means a service that has not been determined to be subject to~~
25 ~~effective competition pursuant to Section 63-9A-8 NMSA 1978;]~~

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1 L. "private telecommunications service" means a
2 system, including the construction, maintenance or operation
3 thereof, for the provision of telecommunications service, or
4 any portion of that service, by a person for the sole and
5 exclusive use of that person and not for resale, directly or
6 indirectly. For purposes of this definition, the person that
7 may use such service includes any affiliates of the person if
8 at least eighty percent of the assets or voting stock of the
9 affiliates is owned by the person. If any other person uses
10 the telecommunications service, whether for hire or not, the
11 private telecommunications service is a public
12 telecommunications service;

13 M "public telecommunications service" means the
14 transmission of signs, signals, writings, images, sounds,
15 messages, data or other information of any nature by wire,
16 radio, lightwaves or other electromagnetic means originating
17 and terminating in this state regardless of actual call
18 routing. "Public telecommunications service" does not include
19 the provision of terminal equipment used to originate or
20 terminate such service; private telecommunications service;
21 broadcast transmissions by radio, television and satellite
22 broadcast stations regulated by the federal communications
23 commission; radio common carrier services, including mobile
24 telephone service and radio paging; or one-way cable television
25 service; and

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1 N. "telecommunications company" means a person that
2 provides public telecommunications service."

3 Section 2. A new section of the New Mexico
4 Telecommunications Act is enacted to read:

5 "[NEW MATERIAL] RATES FOR TELECOMMUNICATIONS SERVICES--
6 PUBLIC NOTICE.--

7 A. Rates for retail public telecommunications
8 services provided by a telecommunications company shall be
9 subject to regulation by the commission only in the manner and
10 to the extent authorized by this section.

11 B. A telecommunications company shall provide price
12 lists that shall be effective for decreases in retail public
13 telecommunications services:

14 (1) three days after they are provided to the
15 commission for all business services other than basic business
16 local exchange service; or

17 (2) three days after provision to the commission
18 and posting to the telecommunications company's public web site
19 for residential service other than basic residential local
20 exchange service.

21 C. Notwithstanding the provisions of Subsection B of
22 this section, rates for basic business local exchange service
23 and basic residential local exchange service shall be either
24 set or modified in accordance with the incumbent local exchange
25 carrier's alternative form of regulation plan implemented by

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1 the commission pursuant to Section 63-9A-8.2 NMSA 1978.

2 D. Rates for local exchange service to retail end-
3 user customers may be reduced to a level in which prices or
4 rates charged for the service shall cover the average variable
5 cost for the provision of the service. Any increase in rates
6 for local exchange service to retail end-user customers shall
7 be in accordance with the incumbent local exchange carrier's
8 alternative form of regulation plan implemented by the
9 commission pursuant to Section 63-9A-8.2 NMSA 1978.

10 E. A telecommunications company operating pursuant to
11 this section may offer or discontinue offering special
12 incentives, discounts, packaged offerings, temporary rate
13 waivers or other promotions or offer individual contracts. "

14 Section 3. REPEAL. --Section 63-9A-8 NMSA 1978 (being Laws
15 1985, Chapter 242, Section 8, as amended) is repealed.

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