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FISCAL IMPACT REPORT

	ORIGINAL DATE	02/16/09	
SPONSOR <u>Griego, P.</u>	LAST UPDATED	03/17/09	HB <u>470/aSCORC/aSPAC/</u>
SHORT TITLE <u>Telecomm Relocation Costs to Customers</u>			SB <u>SFI #1/SFI# 2</u>
ANALYST			<u>Lucero</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non- Rec	Fund Affected
Total		Indeterminate But possibly up to \$1,000.0/relocation	Indeterminate But possibly up to \$1,000.0/relocation	Indeterminate But possibly up to \$1,000.0/relocation	Recurring	General Fund and various other

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Information Technology (DoIT)
 New Mexico Higher Education Department (NMHED)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of SFI#2 Amendment

Senate Floor #1 amendment to SB470 as amended clarifies that "actual costs" in any twelve-month period may include up to a maximum of:

1. \$100,000 for incumbent rural telecommunications carriers as defined in Section 63-9H-3 NMSA 1978;
2. \$100,000 for mid-size carriers; and
3. \$1,000,000 for incumbent local exchange carriers serving more than three hundred seventy-five thousand access lines in the state.

Synopsis of SFI#1 Amendment

Senate Floor #1 amendment to SB470 as amended deletes SPAC Amendments 2 through 10 which reverts the bill to its introduced version leaving only the SCORC amendment clarifying that the definition of "actual costs" as used in the bill does not include the cost of upgrading the facility being relocated.

In addition, SFI#1 amendment deletes the reference to “other party” in regard to who may request facility relocation subject to recovery costs. The amendment also specifies that thirty days prior to assessing retail customers a fee to recover actual costs incurred for the alteration, change, moving or relocation of infrastructure or facilities requested by the state or a political subdivision, a telecommunications company shall notify the PRC in writing of the imposition of the fee that the company intends to impose on the company’s retail customers and shall show the fee as a separate line item on the customers’ bill.

Finally, the amendment changes the applicability of the provisions contained in the bill to July 1, 2009.

Synopsis of SPAC Amendment

Senate Public Affairs Committee (SPAC) amendment changes the bill to entitle telecommunications companies to recover from “those requesting the alteration, change, moving or relocation of infrastructure or facilities” the actual costs incurred for the alteration, change, moving or relocation of infrastructure or facilities requested by the State, a political subdivision or other party.

The amendment specifies that thirty days prior to assessing retail customers a fee to recover actual costs incurred for the alteration, change, moving or relocation of infrastructure or facilities requested by the state or a political subdivision, a telecommunications company shall notify the PRC in writing of the imposition of the fee that company intends to impose on the company’s retail customers and shall show the fee as a separate line item on the customers’ bill.

Additionally, the amendment specifies that “to the extent that the federal government makes funds available for paying the cost of altering, changing, moving or relocating infrastructure or facilities, the Department of Transportation shall use those funds for that purpose as necessary to pay the actual costs incurred for such alteration, changes, moving or relocation of infrastructure or facilities.

Synopsis of SCORC Amendment

Senate Corporations and Transportation Committee (SCORC) amendment to Senate Bill 470 clarifies that “actual costs” as used in the bill does not include the cost of upgrading the facility being relocated.

The amendment also provides that a telecommunications company must notify the PRC, in writing, thirty days prior to assessing the retail customers a fee designed to recover actual costs incurred for the alteration, change, moving or relation of infrastructure or facilities requested by the state, a political subdivision, or other party, and if practicable, show the fee as a separate line item on the customers’ bill.

Synopsis of Original Bill

Senate Bill 470 enacts a new section of law defining terms and entitling telecommunications companies to recover from retail customers without a request for a rate change, the actual costs incurred for the alteration, change, moving or relocation of infrastructure or facilities requested by the State, a political subdivision or other party.

The telecommunications company shall notify the Public Regulation Commission (PRC) in writing of the imposition of a fee. The PRC upon its own motion or through the petition by an interested party may conduct an investigation to verify costs and fees. A noticed hearing is required in the event the PRC finds evidence that a telecommunications company is not recovering its actual incurred costs. The PRC can order adjustments to the fees as necessary.

The cost recovery mechanism shall be a fee. The fee will be shown, if practical, as a separate line item on the company's bill. The provisions of the bill apply to costs incurred after December 31, 2008 to relocate infrastructure or facilities as well as all costs to remove any infrastructure or facilities.

Effective date of the Act is: July 1, 2009.

FISCAL IMPLICATIONS

Senate Floor amendment #2 provides for a maximum "actual cost" fee; however, it is unclear if the maximum is per customer, county, area code, or statewide.

The Act does not specify the methodology for applying the "fee" or if cost recovery is related to customer size, location, or type of telecomm service. The fee could be a percentage, a flat rate, a pro-rata share, etc. Some customers may pay more than others or conversely the whole customer base may share the actual cost recovery.

This Act is a rate rider meaning it would not be a rate change but an additional charge for service that would be shared among customers based on the actual cost of the infrastructure alterations.

The fiscal implications for the state are indeterminate at this time, but could be substantial.

State agencies, like New Mexico Higher Education Department (NMHED) institutions are large retail customers and may be subject to relocation costs. However, reimbursable costs would be shared among all retail customers within the project area.

SIGNIFICANT ISSUES

The SCORC amendment addresses the concern regarding upgrades or system expansion. The amendment provides advance notice to the PRC prior to assessing customers, but not the actual customer or negotiation of alternatives.

The bill does not provide for advance notification of proposed projects, nor for a showing of the reasonableness of the costs as being strictly necessitated by the government request, or that upgrades or system expansion are not included in the costs. The bill does not establish requirements that companies negotiate with governments concerning alternatives, prior to implementing a fee.

ADMINISTRATIVE IMPLICATIONS

The provisions contained in this bill could result in additional proceedings before the PRC, after the fact, to determine if the relocation was appropriate and the costs just and reasonable.

There may be a need to establish procedures, by rule, for companies to recoup these costs through a line item on the bill.

TECHNICAL ISSUES

There is no delineation of which customers would be billed, of the recovery will be spread over one bill cycle or 12 months, or the methodology for applying the fee. .

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Costs of relocating or removing telecommunication infrastructure requested by the State, or a political sub-division after July 1, 2009, would not be reimbursable to the utility company.

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