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SENATE BILL 53

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO COMMUNICATIONS; AMENDING, REPEALING AND ENACTING
SECTIONS OF THE NEW MEXICO TELECOMMUNICATIONS ACT TO PROVIDE
FOR PUBLIC REGULATION COMMISSION JURISDICTION OVER INCUMBENT
LOCAL EXCHANGE CARRIERS AND THEIR INVESTMENT IN
TELECOMMUNICATIONS AND BROADBAND INFRASTRUCTURE.

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

SECTION 1. Section 63-9A-2 NMSA 1978 (being Laws 1985,
Chapter 242, Section 2, as amended by Laws 2000, Chapter 100,
Section 3 and also by Laws 2000, Chapter 102, Section 3) is
amended to read:

"63-9A-2. PURPOSE.--The legislature declares that it
remains the policy of the state of New Mexico to maintain the
availability of access to telecommunications services at
affordable rates. Furthermore, it is the policy of this state

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1 to have comparable telecommunications service rates, as
2 established by the commission, for comparable markets or market
3 areas. To the extent that it is consistent with maintaining
4 availability of access to service at affordable rates and
5 comparable telecommunications service rates, it is further the
6 policy of this state to encourage competition in the provision
7 of public telecommunications services, thereby allowing access
8 by the public to resulting rapid advances in telecommunications
9 technology. It is the purpose of the New Mexico
10 Telecommunications Act to ~~[permit]~~ extend to all consumers and
11 telecommunications companies in the state the benefits of the
12 regulatory flexibility previously provided only to incumbent
13 rural telecommunications carriers and to require a regulatory
14 framework that will ~~[allow]~~ establish an orderly transition
15 from a regulated telecommunications industry to a competitive
16 market environment. It is further the intent of the
17 legislature that the encouragement of competition in the
18 provision of public telecommunications services will result in
19 greater investment in the telecommunications and broadband
20 infrastructure in the state, improved service quality and
21 operations and lower prices for such services."

22 SECTION 2. Section 63-9A-3 NMSA 1978 (being Laws 1985,
23 Chapter 242, Section 3, as amended) is amended to read:

24 "63-9A-3. DEFINITIONS.--As used in the New Mexico
25 Telecommunications Act:

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

5 B. "cable television service" means the one-way
6 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. "commission" means the public regulation
11 commission;

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

15 E. "competitive telecommunications service
16 provider" includes competitive carriers holding certificates of
17 public convenience and necessity issued by the commission
18 pursuant to laws and regulations, including, without
19 limitation, Section 63-9A-6 NMSA 1978;

20 [~~E.~~] F. "effective competition" means the
21 competition that results from the customers of the service
22 [~~have~~] having reasonably available and comparable alternatives
23 to the service, consistent with the standards set forth in
24 Section 63-9A-8 NMSA 1978;

25 [~~F.~~] G. "fund" means the state rural universal

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1 service fund;

2 H. "incumbent local exchange carrier" means a
3 person that:

4 (1) was designated as an eligible
5 telecommunications carrier by the state corporation commission
6 in Docket #97-93-TC by order dated October 23, 1997 or that
7 provided local exchange service in New Mexico on February 8,
8 1996; or

9 (2) became a successor or assignee of an
10 incumbent local exchange carrier;

11 I. "incumbent rural telecommunications carrier"
12 means an incumbent local exchange carrier that serves fewer
13 than fifty thousand access lines within the state and has been
14 designated as an eligible telecommunications company by the
15 state corporation commission or the public regulation
16 commission;

17 ~~[G.]~~ J. "local exchange area" means a geographic
18 area encompassing one or more local communities, as described
19 in maps, tariffs or rate schedules filed with the commission,
20 where local exchange rates apply;

21 ~~[H.]~~ K. "local exchange service" means the
22 transmission of two-way interactive switched voice
23 communications furnished by a telecommunications company within
24 a local exchange area;

25 ~~[I.]~~ L. "message telecommunications service" means

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1 telecommunications service between local exchange areas within
2 the state for which charges are made on a per-unit basis, not
3 including wide-area telecommunications service, or its
4 equivalent, or individually negotiated contracts for
5 telecommunications services;

6 ~~[J.] "mid-size carrier" means a telecommunications~~
7 ~~company with more than fifty thousand but less than three~~
8 ~~hundred seventy-five thousand access lines in the state;~~

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

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

24 ~~[M.]~~ O. "public telecommunications service" means
25 the transmission of signs, signals, writings, images, sounds,

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1 messages, data or other information of any nature by wire,
2 radio, lightwaves or other electromagnetic means originating
3 and terminating in this state regardless of actual call
4 routing. "Public telecommunications service" does not include
5 the provision of terminal equipment used to originate or
6 terminate such service; private telecommunications service;
7 broadcast transmissions by radio, television and satellite
8 broadcast stations regulated by the federal communications
9 commission; radio common carrier services, including mobile
10 telephone service and radio paging; or one-way cable television
11 service; [~~and~~

12 ~~N.]~~ P. "telecommunications company" means a person
13 that provides public telecommunications service;

14 Q. "wire center" means a facility where local
15 exchange access lines converge and are connected to a switching
16 device that provides access to the public switched network and
17 includes remote switching units and host switching units; and

18 R. "wire center serving area" means the geographic
19 area of a local exchange area served by a single wire center."

20 **SECTION 3.** Section 63-9A-5 NMSA 1978 (being Laws 1985,
21 Chapter 242, Section 5) is amended to read:

22 "63-9A-5. REGULATION BY COMMISSION.--

23 A. Except as otherwise provided in the New Mexico
24 Telecommunications Act, each public telecommunications service
25 is declared to be affected with the public interest and, as

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1 such, subject to the provisions of that act, including the
2 regulation thereof as [~~hereinafter~~] provided in that act.

3 B. The commission has exclusive jurisdiction to
4 regulate incumbent local exchange carriers that serve fifty
5 thousand or more access lines within the state only in the
6 manner and to the extent authorized by the New Mexico
7 Telecommunications Act, and Subsection B of Section 63-7-1.1
8 NMSA 1978 does not apply; provided, however, that the
9 commission's jurisdiction includes the regulation of wholesale
10 rates, including access charges and interconnection agreements
11 consistent with federal law and its enforcement and
12 determinations of participation in low-income telephone service
13 assistance programs pursuant to the Low Income Telephone
14 Service Assistance Act. The New Mexico Telecommunications Act
15 expressly preserves and does not diminish or expand:

16 (1) the rights and obligations of any entity,
17 including the commission, established pursuant to federal law,
18 including 47 U.S.C. Sections 251 and 252, or established
19 pursuant to any state law, rule, procedure, regulation or order
20 related to interconnection, intercarrier compensation,
21 intercarrier complaints, wholesale rights and obligations or
22 any wholesale rate or schedule that is filed with and
23 maintained by the commission;

24 (2) the rights and obligations of any
25 competitive telecommunications service provider holding a

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1 certificate of public convenience and necessity, or the rights
2 and obligations of any competitive local exchange carrier to
3 obtain such a certificate;

4 (3) the authority of the commission to resolve
5 consumer complaints regarding basic local exchange service;
6 provided, however, that the commission's authority to resolve
7 such complaints shall be limited to resolving issues of
8 consumer protection and shall not include the authority to
9 determine or fix rates, provider of last resort obligations or
10 service quality standards except as expressly set forth in the
11 New Mexico Telecommunications Act;

12 (4) the authority of the commission to establish
13 reasonable quality of service standards; provided, however,
14 that the enforcement of such standards shall be limited to the
15 commission's fining authority set forth in Section 63-7-23 NMSA
16 1978 and the authority to seek an injunction set forth in
17 Section 63-9-19 NMSA 1978;

18 (5) the rights and obligations of any entity,
19 including the commission, regarding the fund;

20 (6) the rights and obligations of any entity,
21 including the commission, regarding access to emergency service
22 to the extent consistent with the Enhanced 911 Act; or

23 (7) the rights and obligations of any entity,
24 including the commission, regarding the administration of
25 slamming and cramming rules, telecommunications relay service

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1 and numbering resources to the extent permitted by and
2 consistent with federal law.

3 C. For incumbent local exchange carriers that serve
4 fifty thousand or more access lines within the state, the
5 commission shall adopt relaxed regulations that provide for:

6 (1) reduced filing requirements for applicants
7 in rate increase proceedings under the New Mexico
8 Telecommunications Act; and

9 (2) expedited consideration in all proceedings
10 initiated pursuant to the New Mexico Telecommunications Act in
11 order to reduce the cost and burden for incumbent local
12 exchange carriers and other applicants.

13 D. The regulatory requirements and the commission's
14 regulation of competitive local exchange carriers, competitive
15 access providers and interexchange carriers shall be no greater
16 than, and no more extensive than, that of incumbent local
17 exchange carriers that serve fifty thousand or more access
18 lines.

19 E. The provisions of the New Mexico
20 Telecommunications Act do not apply to incumbent rural
21 telecommunications carriers."

22 SECTION 4. Section 63-9A-8 NMSA 1978 (being Laws 1985,
23 Chapter 242, Section 8, as amended) is amended to read:

24 "63-9A-8. REGULATION OF RATES AND CHARGES--EFFECTIVE
25 COMPETITION.--

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1 A. In accordance with the policy established in the
2 New Mexico Telecommunications Act, the commission shall, by its
3 own motion or upon petition by any interested party, hold
4 hearings to determine if any public telecommunications service
5 is subject to effective competition in the relevant market
6 area. When the commission has made a determination that a
7 service or part of a service is subject to effective
8 competition, the commission shall, consistent with the purposes
9 of the New Mexico Telecommunications Act, modify, reduce or
10 eliminate rules, regulations and other requirements applicable
11 to the provision of such service, including the fixing and
12 determining of specific rates, tariffs or fares for the
13 service. The commission's action may include the detariffing
14 of service or the establishment of minimum rates ~~[which]~~ that
15 will cover the costs for the service. Such modification shall
16 be consistent with the maintenance of the availability of
17 access to local exchange service at affordable rates and
18 comparable message ~~[telecommunication]~~ telecommunications
19 service rates, as established by the commission, for comparable
20 markets or market areas, except that volume discounts or other
21 discounts based on reasonable business purposes shall be
22 permitted. Upon petition or request of an affected
23 telecommunications company, the commission, upon a finding that
24 the requirements of Subsection ~~[G]~~ B of this section are met,
25 shall modify the same or similar retail regulatory requirements

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1 for those providers of comparable public telecommunications
2 services in the same relevant markets so that there shall be
3 parity of retail regulatory standards and requirements for all
4 such providers; provided, however, that this subsection shall
5 not be construed to permit the adoption of any new regulatory
6 requirements or standards for providers of comparable
7 telecommunications services.

8 B. In determining whether a service is subject to
9 effective competition, the commission shall consider the
10 following on a wire center serving area basis for each wire
11 center serving area and service for which a determination of
12 effective competition is requested, and separate determinations
13 shall be made for residential and business services in each
14 wire center serving area:

15 (1) the extent to which services are reasonably
16 available from alternate providers [~~in the relevant market~~
17 ~~area~~];

18 (2) the ability of alternate providers to make
19 functionally equivalent or substitute services readily
20 available at competitive rates, terms and conditions; [~~and~~]

21 (3) existing economic, [~~or~~] technological,
22 regulatory or other barriers to market entry and exit;

23 (4) the number of other providers offering the
24 same or reasonably comparable services;

25 (5) the presence of at least two facilities-

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1 based competitors, including without limitation facilities-
2 based providers of wireless or voice over internet protocol
3 services, operating in all or part of the wire center for which
4 a determination of effective competition is requested that are
5 unaffiliated with the petitioning carrier and provide the same
6 or reasonably comparable service of the type for which the
7 finding of effective competition is sought;

8 (6) the ability of the petitioning provider to
9 affect prices or deter competition; and

10 (7) such other factors as the commission deems
11 appropriate.

12 C. If, in the wire center serving area for which a
13 determination of effective competition is requested, the
14 incumbent local exchange carrier provides basic local exchange
15 service either separately or bundled to less than one-half of
16 the customer locations where such service is available at the
17 time the petition is filed, the public interest requires that
18 effective competition be presumed for all regulated
19 telecommunications services provided by the incumbent provider
20 in that wire center serving area; provided, however, that
21 findings and presumptions applied pursuant to this section
22 shall be made separately for residential and business services
23 and customer locations.

24 [~~G.~~] D. No provider of public telecommunications
25 service may use current revenues earned or expenses incurred in

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1 conjunction with any noncompetitive service to subsidize
2 competitive public telecommunications services. In order to
3 avoid cross-subsidization of competitive services by
4 noncompetitive telecommunications services, prices or rates
5 charged for a competitive telecommunications service shall
6 cover the cost for the provision of the service consistent with
7 the provisions of Subsection G of Section 63-9A-8.1 NMSA 1978.

8 In any proceeding held pursuant to this section, the party
9 [~~providing the service~~] claiming that the price for a
10 competitive telecommunications service does not cover the cost
11 shall bear the burden of proving that the prices charged for
12 competitive telecommunications services do not cover cost;
13 provided, however, that the commission may require the
14 telecommunications company against whom the complaint is filed
15 to submit a cost study for the service that is the subject of
16 the complaint as part of its examination and determination of
17 the complaint.

18 [~~D-~~] E. The commission may, upon its own motion or on
19 the petition of an interested party and after notice to all
20 interested parties and customers and a hearing, reclassify any
21 service previously determined to be a competitive
22 telecommunications service if after a hearing the commission
23 finds that a service is not subject to effective competition.

24 F. If a wire center service area is deregulated
25 pursuant to a determination of effective competition, for those

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1 wire center service areas where that service is deregulated,
2 the petitioning telecommunications company shall no longer be
3 eligible to claim an exemption from the application of the
4 Unfair Practices Act or the Antitrust Act."

5 SECTION 5. Section 63-9A-8.1 NMSA 1978 (being Laws 1998,
6 Chapter 108, Section 61, as amended) is amended to read:

7 "63-9A-8.1. CHANGE IN RATES.--

8 ~~[A. At a hearing involving an increase in rates or~~
9 ~~charges sought by a telecommunications company, the burden of~~
10 ~~proof to show that the increased rate or charge is just and~~
11 ~~reasonable shall be upon the company.~~

12 ~~B. Unless the commission otherwise orders, no~~
13 ~~telecommunications company shall make a change in an~~
14 ~~established rate except after thirty days' notice to the~~
15 ~~commission, which notice shall plainly state the changes~~
16 ~~proposed to be made in the rates then in force, the time when~~
17 ~~the changed rates will go into effect and other information as~~
18 ~~the commission by rule requires. The telecommunications~~
19 ~~company shall also give notice of the proposed changes to other~~
20 ~~interested persons as the commission may direct. All proposed~~
21 ~~changes shall be shown by filing new schedules that shall be~~
22 ~~kept open to public inspection. The commission for good cause~~
23 ~~shown may allow changes in rates without requiring the thirty~~
24 ~~days' notice, under conditions that it may prescribe.~~

25 ~~C. Whenever a telecommunications company files a~~

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1 ~~complete application proposing new rates, the commission may,~~
2 ~~upon complaint or upon its own initiative, except as otherwise~~
3 ~~provided by law, upon reasonable notice, enter upon a hearing~~
4 ~~concerning the reasonableness of the proposed rates. If the~~
5 ~~commission determines a hearing is necessary, it shall suspend~~
6 ~~the operation of the proposed rates before they become~~
7 ~~effective but not for a longer initial period than nine months~~
8 ~~beyond the time when the rates would otherwise go into effect,~~
9 ~~unless the commission finds that a longer time will be~~
10 ~~required, in which case the commission may extend the period~~
11 ~~for an additional three months. The commission shall hear and~~
12 ~~decide cases with reasonable promptness. The commission shall~~
13 ~~adopt rules identifying criteria for various rate and tariff~~
14 ~~filings to be eligible for suspension periods shorter than what~~
15 ~~is allowed by this subsection and to be eligible for summary~~
16 ~~approval without hearing.~~

17 ~~D. If after a hearing the commission finds the~~
18 ~~proposed rates to be unjust, unreasonable or in any way in~~
19 ~~violation of law, the commission shall determine the just and~~
20 ~~reasonable rates to be charged or applied by the~~
21 ~~telecommunications company for the service in question and~~
22 ~~shall fix the rates by order to be served upon the~~
23 ~~telecommunications company; or the commission by its order~~
24 ~~shall direct the telecommunications company to file new rates~~
25 ~~respecting such service that are just and reasonable. Those~~

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1 ~~rates shall thereafter be observed until changed as provided by~~
2 ~~the New Mexico Telecommunications Act.~~

3 ~~E. The provisions of this section do not apply to a~~
4 ~~mid-size carrier.]~~

5 A. Rates for retail public telecommunications
6 services provided by an incumbent local exchange carrier that
7 serves fifty thousand or more access lines within the state
8 shall be subject to regulation by the commission only in the
9 manner and to the extent authorized by this section.

10 B. An incumbent local exchange carrier that serves
11 fifty thousand or more access lines within the state shall file
12 tariffs for all retail public telecommunications services that,
13 other than residential local exchange service, shall be
14 effective after ten days' notice to its customers and the
15 commission. An incumbent local exchange carrier that serves
16 fifty thousand or more access lines within the state shall
17 remain subject to complaint by an interested party subject to
18 Section 63-9A-11 NMSA 1978.

19 C. An incumbent local exchange carrier that serves
20 fifty thousand or more access lines within the state may
21 increase its rates for residential local exchange service in
22 the manner provided in Subsection B of this section to comply
23 with requirements imposed by any federal or state law or rule.
24 The procedures of Subsections D, E and F of this section shall
25 not apply to increases under this subsection.

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1 D. Except as provided in Subsection C of this
2 section, rates for residential local exchange service may be
3 increased by an incumbent local exchange carrier that serves
4 fifty thousand or more access lines within the state only after
5 sixty days' notice to all affected subscribers. The notice of
6 increase shall include:

7 (1) the reasons for the rate increase;

8 (2) a description of the affected service;

9 (3) an explanation of the right of the
10 subscriber to petition the commission for a public hearing on
11 the rate increase;

12 (4) a list of local exchange areas that are
13 affected by the proposed rate increase; and

14 (5) the dates, times and places for the public
15 informational meetings required by this section.

16 E. An incumbent local exchange carrier that serves
17 fifty thousand or more access lines within the state that
18 proposes to increase its rates for residential local exchange
19 service pursuant to Subsection D of this section shall hold at
20 least one public informational meeting in each public
21 regulation commission district as established by the Public
22 Regulation Commission Apportionment Act in which there is a
23 local exchange area affected by the rate change.

24 F. Residential local exchange service rates increased
25 by an incumbent local exchange carrier that serves fifty

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1 thousand or more access lines within the state pursuant to
2 Subsections D and E of this section shall be reviewed by the
3 commission only upon written protest signed by at least one
4 hundred affected subscribers or upon the commission staff's own
5 motion for good cause. The protest shall specifically set
6 forth the particular rate or charge as to which review is
7 requested, the reasons for the requested review and the relief
8 that the persons protesting desire. If a proper protest is
9 presented to the commission within sixty days from the date
10 that notice of the rate change was sent to affected subscribers
11 of an incumbent local exchange carrier, the commission may
12 accept and file the complaint and, upon proper notice, may
13 suspend the rates at issue during the pendency of the
14 proceedings and reinstate the rates previously in effect and
15 shall hold and complete a hearing thereon within ninety days
16 after filing to determine if the rates as proposed are fair,
17 just and reasonable. The commission may, within sixty days
18 after close of the hearing, enter an order adjusting the rates
19 at issue, except that the commission shall not set any rate
20 below the intrastate cost of providing the service. In the
21 order, the commission may order a refund of amounts collected
22 in excess of the rates and charges as approved at the hearing,
23 which may be paid as a credit against billings for future
24 services. If the complaint is denied, the commission shall
25 enter an order denying the complaint within sixty days after

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1 the close of the hearing, and the rates shall be deemed
2 approved. For purposes of this section, cost shall also
3 include a reasonable amount of joint and common costs incurred
4 by the incumbent local exchange carrier that serves fifty
5 thousand or more access lines within the state in its
6 operations and may include other accounting adjustments
7 authorized by the commission.

8 G. Rates for local exchange, vertical and long-
9 distance service to retail residential and business end-user
10 customers charged by incumbent local exchange carriers that
11 serve fifty thousand or more access lines may be reduced to a
12 level equal to, but not below, the intrastate cost. The rate
13 for a service, excluding basic service, must cover the cost of
14 the service, including the imputed rate of wholesale service
15 elements as may be required by the commission. The cost of
16 long-distance service shall also include any interexchange
17 access rates charged to another telecommunications company for
18 the service.

19 H. An incumbent local exchange carrier that serves
20 fifty thousand or more access lines within the state may offer
21 or discontinue offering retail special incentives, discounts,
22 packaged offerings, temporary rate waivers or other promotions
23 and may offer individual contracts."

24 SECTION 6. Section 63-9A-9 NMSA 1978 (being Laws 1985,
25 Chapter 242, Section 9, as amended) is amended to read:

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1 "63-9A-9. REGULATION OF INDIVIDUAL CONTRACTS TO
2 FACILITATE COMPETITION.--

3 A. In accordance with the provisions of this section,
4 the commission shall regulate the rates, charges and service
5 conditions for individual contracts for public
6 telecommunications services in a manner [~~which~~] that
7 facilitates effective competition and shall authorize the
8 provision of all or any portion of a public telecommunications
9 service under stated or negotiated terms to any person or
10 entity that has acquired or is preparing to acquire, through
11 construction, lease or any other form of acquisition, similar
12 public telecommunications services from an alternate source.

13 B. At any time, the provider of public
14 telecommunications services may file a verified application
15 with the commission for authorization to provide a public
16 telecommunications service on an individual contract basis.
17 The application shall describe the telecommunications services
18 to be offered, the party to be served and the parties offering
19 the service, together with such other information and in such
20 form as the commission may prescribe. Such additional
21 information shall be reasonably related to the determination of
22 the existence of a competitive offer. A determination of
23 effective competition pursuant to Section 63-9A-8 NMSA 1978
24 shall not be necessary to file an application or to have an
25 application granted by the commission pursuant to this section.

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1 C. The commission shall approve or deny any such
2 application within ten days or such other period as shall be
3 established by the commission, not to exceed sixty days, giving
4 consideration to the requirements of any contract negotiations.
5 If the commission has not acted on any application within the
6 time period established, the application shall be deemed
7 granted. The commission shall deny the application only upon a
8 finding that the application fails to set forth prescribed
9 information or that the subject or comparable services are not
10 being offered to the customer by parties other than the
11 applicant or that the contract fails to cover the costs of the
12 service, as provided in Subsection G of Section 63-9A-8.1 NMSA
13 1978.

14 D. ~~[Within ten days after the conclusion of~~
15 ~~negotiations, the provider of public telecommunications~~
16 ~~services shall file with the commission the final contract or~~
17 ~~other evidence of the service to be provided, together with the~~
18 ~~charges and other conditions of the service, which shall be~~
19 ~~maintained by the commission on a confidential basis subject to~~
20 ~~an appropriate protective order.] The telecommunications~~
21 company shall file with the commission the final contract or
22 other evidence of the service to be provided, together with the
23 charges and other conditions of service, upon request by the
24 commission. If such contract or evidence is requested, it
25 shall be maintained by the commission on a confidential basis

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1 subject to an appropriate protective order. Any interested
2 party may receive copies of filings made pursuant to this
3 section upon request to the commission and execution of an
4 appropriate confidentiality agreement, if applicable."

5 SECTION 7. Section 63-9A-11 NMSA 1978 (being Laws 1985,
6 Chapter 242, Section 11) is amended to read:

7 "63-9A-11. COMPLAINT ALLEGING VIOLATION BY PROVIDER OF
8 TELECOMMUNICATIONS SERVICES.--

9 A. Complaint may be made by any interested party
10 setting forth any act or omission by a provider of
11 telecommunications services alleged to be in violation of any
12 provision of the New Mexico Telecommunications Act or any order
13 or rule of the commission issued pursuant to that act.

14 B. Upon filing of the complaint, the commission shall
15 set the time and place of hearing, if a hearing is required,
16 and at least ten days' notice [~~thereof~~] of the hearing shall be
17 given to the party complained of. Service of notice of the
18 hearing shall be made in any manner giving actual notice.

19 C. All matters upon which complaint may be founded
20 may be joined in one hearing and a complaint is not defective
21 for misjoinder or nonjoinder of parties or causes, either
22 before the commission or on review by the courts. The persons
23 the commission allows to intervene shall be joined and heard,
24 along with the complainant and the party complained of.

25 D. The burden shall be on the party complaining to

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1 show a violation of a provision of the New Mexico
2 Telecommunications Act or an order or rule of the commission
3 issued pursuant to that act.

4 E. After conclusion of the hearing, the commission
5 shall make and file an order containing its findings of fact
6 and decision. A copy of the order shall be served upon the
7 party complained of or [~~his~~] that party's attorney.

8 F. Conduct of the hearings and rendering of decisions
9 shall be governed by the rules of practice and procedure
10 [~~heretofore or hereafter~~] promulgated by the commission."

11 SECTION 8. A new section of the New Mexico
12 Telecommunications Act is enacted to read:

13 "[NEW MATERIAL] COMMISSION REVIEW OF IMPACTS.--The
14 commission shall review the impact of provisions of the New
15 Mexico Telecommunications Act on residential and business
16 consumers in urban and rural areas of the state every three
17 years, the first review to be completed by July 31, 2019, and
18 shall report its findings to the legislature. The review shall
19 investigate the impact on rates, service quality, incumbent
20 local exchange carrier employment, investment in
21 telecommunications infrastructure and the availability and
22 deployment of high speed data services. The review shall also
23 include a report on those wire center serving areas that have
24 been deemed to have effective competition and any wire centers
25 no longer subject to carrier of last resort obligations. For

.205120.3

underscoring material = new
~~[bracketed material] = delete~~

1 any wire center serving an area deregulated pursuant to the
2 provisions of Section 63-9A-8 NMSA 1978, if the commission
3 finds that reregulation of basic local exchange service is
4 necessary to protect the public interest following a hearing
5 and findings of fact and conclusions of law, after July 31,
6 2021, the commission may regulate basic local exchange service
7 pursuant to the New Mexico Telecommunications Act."

8 SECTION 9. REPEAL.--Sections 63-9A-5.1, 63-9A-5.2 and
9 63-9A-8.2 NMSA 1978 (being Laws 2004, Chapter 3, Sections 4 and
10 5; and Laws 2000, Chapter 100, Section 4 and Laws 2000, Chapter
11 102, Section 4, as amended) are repealed.

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