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SENATE BILL 164

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY
Michael Padilla

AN ACT

RELATING TO COMMUNICATIONS; AMENDING THE WIRELESS CONSUMER
ADVANCED INFRASTRUCTURE INVESTMENT ACT TO INCLUDE POLITICAL
SUBDIVISIONS AND STATE AGENCIES IN THE DEFINITION OF
"AUTHORITY"; CLARIFYING THE DEFINITION OF "RIGHT OF WAY".

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

SECTION 1. Section 63-9I-2 NMSA 1978 (being Laws 2018,
Chapter 17, Section 2 and Laws 2018, Chapter 69, Section 2) is
amended to read:

"63-9I-2. DEFINITIONS.--As used in the Wireless Consumer
Advanced Infrastructure Investment Act:

A. "antenna" means communications equipment that
transmits or receives electromagnetic radio frequency signals
and that is used to provide wireless services;

B. "applicable codes" means uniform building, fire,

1 electrical, plumbing or mechanical codes adopted by a
2 recognized national code organization and enacted by the
3 authority, including the local amendments to those codes
4 enacted by the authority solely to address imminent threats of
5 destruction of property or injury to persons, to the extent
6 that those amendments are consistent with the Wireless Consumer
7 Advanced Infrastructure Investment Act;

8 C. "applicant" means a wireless provider that
9 submits an application;

10 D. "application" means a request submitted by an
11 applicant to an authority for a permit to collocate one or more
12 small wireless facilities or to approve the installation,
13 modification or replacement of a utility pole or wireless
14 support structure;

15 E. "authority" means a ~~[municipality or county]~~
16 political subdivision of the state or a state agency;

17 F. "authority utility pole" means a utility pole,
18 owned or operated by an authority, in a right of way;

19 G. "collocate" means to install, mount, maintain,
20 modify, operate or replace one or more wireless facilities on,
21 in or adjacent to a wireless support structure or utility pole;

22 H. "communications service" means cable service as
23 defined in 47 U.S.C. Section 522(6), information service as
24 defined in 47 U.S.C. Section 153(24), mobile service as defined
25 in 47 U.S.C. Section 153(33), telecommunications service as

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1 defined in 47 U.S.C. Section 153(53) or wireless service other
2 than mobile service;

3 I. "fee" means a one-time charge;

4 J. "law" includes federal, state or local law;

5 K. "permit" means the written permission of an
6 authority for a wireless provider to install, mount, maintain,
7 modify, operate or replace a utility pole or to collocate a
8 small wireless facility on a utility pole or wireless support
9 structure;

10 L. "person":

11 (1) means an individual, corporation, limited
12 liability company, partnership, association, trust or other
13 entity or organization; and

14 (2) includes an authority;

15 M. "private easement" means an easement or other
16 real property right given for the benefit of the grantee of the
17 easement and the grantee's successors and assigns;

18 N. "rate" means a recurring charge;

19 O. "right of way":

20 (1) means the area on, below or above a public
21 roadway, highway, street, sidewalk, alley or utility easement;
22 and

23 (2) does not include the area on, below or
24 above:

25 ~~[(a) a federal interstate highway;~~

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1 connection of power and other services; and

2 (h) elements required by an authority in
3 accordance with Subsection H of Section [~~3 of the Wireless~~
4 ~~Consumer Advanced Infrastructure Investment Act~~] 63-9I-3 NMSA
5 1978;

6 Q. "utility pole":

7 (1) means a pole or similar structure used in
8 whole or in part for communications services, electricity
9 distribution, lighting or traffic signals; and

10 (2) does not include a wireless support
11 structure or electric transmission structure;

12 R. "wireless facility":

13 (1) means equipment at a fixed location that
14 enables wireless communications between user equipment and a
15 communications network, including:

16 (a) equipment associated with wireless
17 communications; and

18 (b) radio transceivers, antennas,
19 coaxial or fiber-optic cables, regular and backup power
20 supplies and comparable equipment, regardless of technological
21 configuration;

22 (2) includes a small wireless facility; and

23 (3) does not include:

24 (a) the structure or improvements on,
25 under or within which the equipment is collocated;

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1 (b) a wireline backhaul facility,
2 coaxial cable or fiber-optic cable between wireless support
3 structures or utility poles; or

4 (c) coaxial or fiber-optic cable
5 otherwise not immediately adjacent to, or directly associated
6 with, an antenna;

7 S. "wireless infrastructure provider" means a
8 person, other than a wireless services provider, that may
9 provide telecommunications service in New Mexico and that
10 builds or installs wireless communications transmission
11 equipment, wireless facilities' utility poles or wireless
12 support structures;

13 T. "wireless provider" means a wireless
14 infrastructure provider or wireless services provider;

15 U. "wireless services" means services provided to
16 the public that use licensed or unlicensed spectrum, either
17 mobile or at a fixed location, through wireless facilities;

18 V. "wireless services provider" means a person that
19 provides wireless services;

20 W. "wireless support structure" means a
21 freestanding structure, including a monopole or guyed or
22 self-supporting tower, but not including a utility pole; and

23 X. "wireline backhaul facility" means a facility
24 used to transport services by wire from a wireless facility to
25 a network."