



**NMECG Presentation to
Science Technology & Telecommunications Interim Legislative Committee
November 18, 2013**

Mr. Chairman, members of the committee, my name is Charles Ferrell and I am the Executive Director for the New Mexico Exchange Carrier Group (NMECG). With me today is Sam Ray, Lobbyist for the NMECG, and William Templeman, who is the attorney for our organization. Thank you for allowing us to speak to you today. The NMECG is an industry association and has eleven small rural telecommunications companies as its members.

First, I want to provide some information concerning the NMECG member companies. The NMECG companies are comprised of seven customer owned cooperatives and four small investor owned commercial companies. The smallest cooperative is Dell Telephone Cooperative, serving the communities of Timberon and the Queens in South Eastern NM. The largest Cooperative, ENMR Plateau, serves 83 rural communities in Eastern New Mexico. The smallest commercial company, Baca Valley Telephone Co., serves approximately 650 access lines in the communities around Maxwell and Des Moines New Mexico, and the largest commercial company, Western New Mexico Telephone Company serves most of the communities in Catron, Grant and Luna Counties.

The NMECG companies in addition to those I just mentioned are:

La Jicarita Telephone Cooperative, serving Mora and Wagon Mound and surrounding rural communities;

Leaco Rural Telephone Cooperative, serving rural communities near Hobbs;

Penasco Valley Telephone Cooperative, serving rural communities near Artesia;



Roosevelt County Rural Telephone Cooperative, serving rural communities near Portales;

Sacred Wind Communications, serving portions of the Navajo Reservation and nearby rural areas;

Tularosa Basin Telephone Co, serving Tularosa, Cloudcroft and Carrizozo and near by rural areas; and

Valley Telephone Cooperative, serving rural communities in far southwest New Mexico

The NMECG companies provide service to customers in rural areas covering over 63 percent of the state’s geography, or nearly 77,124 square miles, and to about 17 percent of New Mexico’s wireline telecommunications service consumers. The combination of large areas served and low population density means the average small rural telephone company in New Mexico serves fewer than 2.24 customers per square mile. Not surprisingly, under these conditions, it is extremely costly to provide high quality telecommunications service to customers in rural areas of the State.

In 1999, the New Mexico Legislature passed the Rural Telecommunications Act (“RTA”), which established a regulatory framework for the New Mexico Public Regulation Commission (NMPRC) to regulate telephone companies with less than 50,000 access lines. In the RTA, Section 63-9H-2, the Purpose section, the Legislature sets forth the policies and goals for the provision of telecommunications services by small telephone companies to customers in rural areas of the State and expressly recognizes the need for disparate regulatory treatment between the small rural companies and the larger, non-rural carriers that operate in the State.

In sum, this Purpose section provides as follows:

63-9H-2. Purpose.

The legislature declares that it remains the policy of the state of New Mexico to maintain for rural customers:

- **availability of access to telecommunications services at affordable rates.**



- **comparable long distance service rates, as established by the commission, for comparable markets or market areas.**
- **access to service at affordable rates for rural customers**
- **to encourage competition and reduce regulation in the telecommunications industry,**
- **to permit a regulatory framework that will allow an orderly transition for rural telephone carriers from a regulated telecommunications industry to a competitive market environment consistent with the federal act .**
The legislature also states that:
- **as part of such regulatory framework, it is necessary to provide disparate regulatory treatment between rural telephone carriers and non-rural telephone carriers in order to assist with accomplishing the goals established by the above-declared policies.**
- **Disparate regulatory treatment for rural telephone carriers requires relaxed regulation for rural telephone carriers with the objective of reducing the cost of regulation as well as the regulatory burden, permitting pricing flexibility and expediting required rate approvals, all in a manner consistent with both the purpose of an orderly transition from regulation to a competitive market environment and the federal act.**

Small Rural Telephone Companies have historically been given disparate regulatory treatment by the FCC and state commissions across the country compared to larger carriers due their small size and the remote, high-cost areas they serve. In fact, Congress, when it enacted the Federal Telecommunications Act of 1996 (the “Act”), which set forth the many obligations of Incumbent Local Exchange Carriers (“ILECs”) relating to requests for interconnection and negotiations with competitive carriers, specifically provided in Section 251 (f) an exemption for Rural Telephone Companies from certain obligations, including the duty to negotiate in good faith, until a state commission makes a determination that a request is not unduly burdensome to the rural telephone company. The FCC frequently recognizes the need for disparate treatment for small rural telephone carriers and it carefully balances the need to impose regulations on small rural telephone companies with the burden the regulations may



cause. As I noted above, the New Mexico RTA also recognizes the need for disparate regulatory treatment for small rural carriers and, pursuant to the RTA, the NMPRC has adopted regulations that impose different obligations for small rural carriers than for larger carriers.

The Rural Telecommunications Act has served the State and the customers served by the small rural companies well. The NMECG member companies have been able to provide state of the art basic and advanced telecommunications services to their rural customers at affordable rates and at the same time provide excellent quality of service. For example, over 95 percent of their rural customers can have broadband services if they want it. The five-year capital investment for all of the NMECG companies as of the end of 2011 totaled \$216M. Collectively the companies have placed 6,300 miles of fiber cable in their serve exchanges.

Tularosa Basin Telephone Company, serving Carrizozo, Cloudcroft and Tularosa Exchanges are providing fiber to premises' for approximately 70% of their customers. La Jicarita Rural Telephone Cooperative just this year connected all of its remote serving units to a fiber network and has fiber to the home for many of its customers. Roosevelt County Rural Telephone Cooperative placed fiber to all of its customers in the Texico serving area. This year Roosevelt's Melrose serving area will have fiber to the home. Leaco Rural Telephone Cooperative last year was awarded a \$50M RUS loan to connect its remote-serving units in Dexter and Hagerman with fiber and the serving area of Tatum has fiber to the home. When Penasco Valley Cooperative completes their current construction projects, they will have 100 % of its main switching centers and remote units connected to fiber facilities.

Through its proposed legislation presented today, CenturyLink wants to be regulated the same as the small rural telephone companies. However, if the proposed legislation is enacted in its current form by amending the RTA, the express policy for



disparate regulatory treatment for small rural telephone companies would apparently be eliminated. That would negate a key part of the Purpose section which has been enormously beneficial for the customers of small rural telephone companies since the Legislature enacted the RTA in 1999.

One of the main reasons for the disparate regulatory treatment of small rural telephone companies is that, because of their small size, they generally do not have attorneys or regulatory analysts on their staffs and, instead, must hire these outside experts on a case by case basis as the need arises. Thus, the more regulation that is imposed on rural telephone companies, the more they must turn to these outside experts at considerable additional cost in order to comply with the additional regulation. In contrast, large national ILECs employ multiple attorneys and analysts that handle issues for the company throughout the country which makes it easier and less costly for the larger companies to comply with regulation imposed on them. The small rural telephone companies in most cases do not have the same issues as the larger companies. Service complaints are rare and requests for service are satisfied usually within the next day following the request.

The NMECG believes that it is important that the NMPRC continue to have the ability to treat small rural telephone companies differently than larger carriers for regulatory purposes when appropriate, and to carefully consider whether potential new regulations or obligations will be unduly burdensome to the small rural telephone companies.

Other states also recognize the need for this disparate regulation and their regulatory commissions have different sets of regulatory standards for the small and large carriers, including Nebraska, Minnesota and Montana.

The NMECG member companies do not oppose the general goal behind CenturyLink's bill, which apparently is to regulate all incumbent telecommunications



carriers with the same relaxed treatment that has worked so well for rural companies and their customers in New Mexico . However, the NMECG believes the need for disparate regulatory treatment continues to exist at times and that the PRC should continue to have the authority to provide for such disparate regulatory treatment for small rural telephone companies where appropriate.

We look forward to discussing the legislation further with CenturyLink, but at this time the NMECG is unable to fully support CenturyLink's proposal to amend the Rural Telecommunications Act.

Thank you for the opportunity to come before this committee and I stand for questions.