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FISCAL IMPACT REPORT

SPONSOR Heaton DATE TYPED 1/26/2004 HB 24

SHORT TITLE Mid-Size Telecommunication Carrier Regulation SB _____

ANALYST Garcia

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
		NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Regulation Commission

SUMMARY

Synopsis of Bill

The bill mandates the Public Regulation Commission's (PRC) rule-making for regulation of mid-size telecommunications carriers to be after the expiration of Valor's current alternative form of regulation (AFOR) on March 31, 2006 or certification of a new mid-size telecommunications carrier. The bill amends the New Mexico Telecommunications Act and defines a "mid-size carrier" as a carrier that has more than 50 thousand but less than 375 thousand telecommunications subscriber lines. In addition, the bill clarifies the process for rate changes by "large" carriers not to apply to mid-sized carriers as well as the process for identification of subsidies, establishment of rules and prices caps not to apply to mid-sized carriers. The statute envisions a form of regulation for mid-size telecommunications carriers that is different than the current regulatory scheme pursuant to Section 63-9A-8.2 (i.e. an alternative form of regulation) but more than the minimal regulatory oversight for rural telecommunication carriers pursuant to Sections 63-9H-1 et seq.

The bill establishes a new level of regulation for mid-size carriers including specific criteria the PRC will consider in adopting rules for mid-sized carriers. The bill provides for the PRC rule-making to establish pricing flexibility for "basic services" (defined as retail residential and business offerings that provide customers with basic voice grade services) and "non basic services" (defined as other retail services that are not basic services, switched access or wholesale services.) The bill also sets out the objectives to be achieved in the regulation of mid-size carriers to

include: minimizing the cost of regulation, distinguishing regulation for mid-size carriers from rural and large carriers; continuation of universal service goals, capital investment, and availability of affordable basic local services; and encouragement of competition and economic development through the efficient deployment of services.

The bill further sets out certain operational and technical criteria to be considered by the PRC in its rulemaking. The criteria include: (1) number of lines served, (2) types of markets served, (3) prices charged by other companies for comparable services, (4) quality of service and consumer protection requirements, including historical performance in that area, and (5) operating experience of carriers under current or previous forms of regulation. Under the bill, the PRC is required to adopt rules for price ceilings and changes to basic service rates, including an objective mechanism to be utilized for periodic price adjustments. The bill also gives the PRC the authority to increase basic service prices resulting from revenue neutral rate rebalancing.

The PRC is required to adopt rules regarding reasonable quality of service and consumer protection standards, reasonable pricing flexibility for non-basic services, and an assurance that non-basic service terms and conditions are in the public interest. Furthermore, the bill allows mid-size carriers to introduce or withdraw non-basic services, bundle and package non-basic services and products with other services and products upon 10 day notice and the filing of a tariff. On the other hand, the PRC has the ability to suspend the introduction, withdraw or adjust the introduction to ensure compliance with applicable rules for cost considerations or a finding that the tariff filing is not consistent with the public interest.

Lastly, the bill requires a report to the Legislature from the affected mid-sized carriers and a review of the adopted rules from the PRC two years after the rules become effective.

Significant Issues

1) HB 24 was promulgated in response to SJM 98 passed during the 2003 Legislative Session. SJM 98 requested an interim committee to study the inconsistency between federal and state regulation of incumbent local exchange carriers with over 50 thousand access lines who are considered a rural telecommunications company under federal law and not an incumbent rural telecommunications carrier under New Mexico law. SJM 98 directed the interim committee to consider changes in law to create consistency in legislation with the consideration of certain conditions reflected in SJM 98 and report its findings in the next legislative session. The PRC staff and Valor reported twice to the interim Rural Economic Development and Telecommunications Committee with updates regarding its progress in creating legislation. At its last meeting, the committee endorsed the bill, and HB 24 was introduced on behalf of the committee.

2) In 2001, the PRC implemented an alternative form of regulation (AFOR) plan for regulating telecommunications companies. Unlike traditional monopoly regulation that focused on profit margins of companies (rate of return regulation), AFOR uses prices caps in its regulation policy.

FISCAL IMPLICATIONS

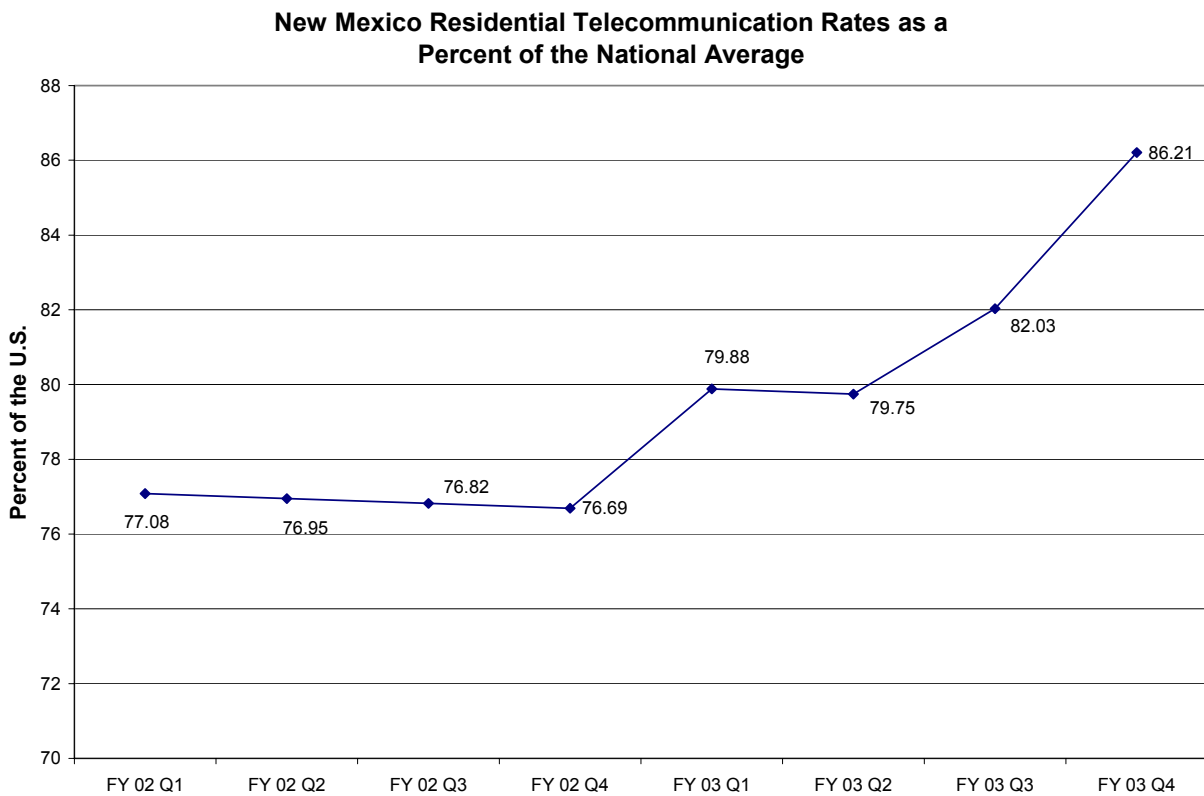
No fiscal impact.

ADMINISTRATIVE IMPLICATIONS

No impact. The PRC already has proper staffing and is able to absorb the changes in regulation based on the rules process.

OTHER SUBSTANTIVE ISSUES

The following graph is a depiction of New Mexico residential telecommunication rates. The graph shows that New Mexico's telecommunication rates since FY02 have remained below the national average. The implementation of AFOR started in April 2001, shortly before the start of FY02.



Source: Public Regulation Commission, Utilities Bureau (LFC Budget Report)

DG/yr