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FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/07

SPONSOR Gardner LAST UPDATED _____ HB 992

SHORT TITLE PRC Reports on Qwest Settlement SB _____

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill 992 would require the Public Regulation Commission (PRC) to report quarterly to the Legislative Finance Committee (LFC) on the December 2006 settlement agreement between the state and Qwest through June 30, 2010. The reports shall include:

- 1) Progress on designing and constructing settlement projects
- 2) Progress on achieving high-speed internet availability throughout the state
- 3) Expenditures and results of implementing the STRONG project
- 4) Customer credits and rate reductions given pursuant to the settlement.

FISCAL IMPLICATIONS

None identified.

SIGNIFICANT ISSUES

The settlement agreement between Qwest Corporation and other parties before the PRC was initiated to address and dispose of administrative and court litigation regarding Qwest's investment shortfall under Qwest's first Alternative Form of Regulation (AFOR). On December

15, 2006, the stipulating parties filed the Amended Settlement Agreement with the Commission for approval. On December 28, 2006, the Commission requested adjustments to the Amended Settlement Agreement. The parties did so and filed the Second Amended Settlement Agreement (SASA) on January 18, 2006, which became effective February 2, 2007.

According to PRC:

There are significant difference between the reporting requirements set out in this bill and the reporting obligations contained in the SASA. The SASA requires Qwest to file quarterly reports, as well as credit reports, project reports, a midpoint report and a final report. This basic information will then be reviewed by PRC and GSD engineering Staff to assess whether these projects are on track both in terms of expenditures and deployment. A critical aspect of the assessment of the progress is the requirement that Qwest file an interim report after the 21st month (midpoint) of the settlement agreement in greater detail regarding project completion and expenses addressed in the SASA, and any credits due to non-completion of projects in the settlement agreement. Qwest is also to file a final report at the end of the term of the SASA (42 months) with the same reporting requirements as the interim report. Certain items in the Qwest reports may be confidential and may be subject to interpretation, analysis and challenge. This would make it difficult for the PRC to report to the LFC quarterly on the "progress" of certain projects as provided for in the bill.

The bill requires the PRC to report quarterly on the "expenditures and results of implementing the STRONG project". The PRC will have no information on the STRONG project -- either this legislature will appropriate money to the NM Department of Education who will implement the program, or the legislature will not appropriate money and Qwest customers will receive the money allocated to the STRONG project in the form of credits.

House Bill 992 requires PRC to report to the LFC on the progress (assuming Qwest's) of implementing the provisions of the settlement. The vagueness of the statutory requirement of quarterly PRC reporting of the "progress" is in stark contrast to the specific categories of costs etc. that Qwest is required to file in its reports.

ADMINISTRATIVE IMPLICATIONS

The bill creates an additional requirement for the PRC to report to the LFC regarding the progress of various obligations set out in an agreement that was approved by the Commission

TECHNICAL ISSUES

The bill references the December 2006 Settlement Agreement between the state and Qwest, not the SASA, effective February 2, 2007.

ALTERNATIVES

PRC offers the following alternative:

Arrangements can be made to allow certain LFC members or staff to have access to the Qwest's quarterly reports. If, after reviewing Qwest's filings, the LFC has any questions regarding the

progress, or lack thereof, on any one project or category of projects, the Commission and/or its staff, can respond informally or at a legislative meeting to address those specific questions. In any event, the PRC is always willing to address questions or accept comments from any legislator or committee in regard to Commission oversight of the provision of telecommunications and high speed services in New Mexico.

BE/mt