F I S C A L   I M P A C T   R E P O R T

SPONSOR	Griego, P.	**ORIGINAL DATE** **LAST UPDATED**	03/12/09	**HB**	940/HCPACS
SHORT TITLE	Telecomm Relocation Costs to Customers			**SB**	
				ANALYST	Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate but possibly substantial	Indeterminate but possibly substantial	Indeterminate but possibly substantial	Recurring	General Fund and various other

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

SUMMARY

Synopsis of Bill

House Consumer and Public Affairs Committee (HCPAC) substitute for House Bill 940 enacts a new section of law defining terms and entitling telecommunications companies to recover from retail customers without a request for a rate change, the actual costs incurred for the alteration, change, moving or relocation of infrastructure or facilities requested by the State or a political subdivision.

The bill clarifies that “actual costs” as used in the bill does not include the cost of upgrading the facility being relocated.

The bill specifies that thirty days prior to assessing retail customers a fee to recover actual costs a telecommunications company shall notify the Public Relations Commission (PRC) in writing of the imposition of the fee the company intends to impose on the company’s retail customers and shall show the fee as a separate line item on the customers’ bills.

The cost recovery mechanism shall be a fee. The provisions of the bill apply to costs incurred after July 1, 2009 to relocate infrastructure or facilities as well as all costs to remove any infrastructure or facilities.

Effective date of the Act is: July 1, 2009.

FISCAL IMPLICATIONS

This Act is a rate rider meaning it would not be a rate change but an additional charge for service that would be shared among customers based on the actual cost of the infrastructure alterations. The bill allows for a “fee” to be charged; however, the bill does not specify the methodology for applying the “fee”. The fee could be a percentage, a flat rate, a pro-rata share, etc. Some customers may pay more than others or conversely the whole customer base may share in actual cost recovery.

The fiscal implications for state government are indeterminate at this time, but could be substantial. The bill does not specify if cost recovery is related to customer size, location, and/or cause of infrastructure relocation. State agencies, like New Mexico Higher Education Department (NMHED) are large retail customers and may be subject to relocation costs.

SIGNIFICANT ISSUES

The bill does not provide for advance notification or public hearing process for proposed projects that may affect customers, or for a showing of the reasonableness of the costs as being strictly necessitated by the government request.

The bill does not establish requirements that companies negotiate with governments concerning alternatives prior to relocating infrastructure or prior to implementing a fee.

ADMINISTRATIVE IMPLICATIONS

The provisions contained in this bill could result in additional proceedings before the PRC, after the fact, to determine if the relocation was appropriate, the costs just and reasonable, or that the methodology of applying the “fee” was fair.

There may be a need to establish procedures, by rule, for companies to recoup these costs through a line item on the bill.

TECHNICAL ISSUES

There is no delineation of which customers would be billed, or for how long.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Costs of relocating or removing telecommunication infrastructure requested by the State or a political sub-division after July 1, 2009, would not be reimbursable to the utility company.

DL/mt:mc