

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 408

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Manny M Aragon

AN ACT

RELATING TO TELECOMMUNICATIONS; ENACTING THE TELECOMMUNICATIONS INVESTMENT AND ECONOMIC DEVELOPMENT ACT; PROVIDING FOR DEREGULATION OF TELECOMMUNICATIONS CARRIERS AND OTHER CHANGES IN TELECOMMUNICATIONS SERVICES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 12 of this act may be cited as the "Telecommunications Investment and Economic Development Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the Telecommunications Investment and Economic Development Act is to:

- A. provide equal treatment for all telecommunications carriers;

underscored material = new
[bracketed material] = del ete

underscored material = new
[bracketed material] = delete

- 1 B. eliminate costly and burdensome regulation;
- 2 C. provide incentives for investment in advanced
- 3 telecommunications infrastructure throughout the state of New
- 4 Mexico;
- 5 D. provide price stability for residence and
- 6 business telecommunications customers during the transition to
- 7 a deregulated market; and
- 8 E. enhance economic development.

9 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the

10 Telecommunications Investment and Economic Development Act:

- 11 A. "commission" means the public regulation
- 12 commission;
- 13 B. "cost of a retail public telecommunications
- 14 service" means total service long-run incremental cost,
- 15 including an appropriate allocation of shared and common
- 16 costs, but does not include the imputation of the price of any
- 17 component unless:
 - 18 (1) the component to be imputed is essential
 - 19 to the provision of the retail service;
 - 20 (2) the telecommunications carrier offering
 - 21 the retail service is the sole provider of the essential
 - 22 component;
 - 23 (3) a competitor cannot practically or
 - 24 economically duplicate the essential component, or obtain an
 - 25 alternative or substitute to the essential component from

underscored material = new
[bracketed material] = delete

1 another source;

2 (4) the amount imputed is the direct cost of
3 the essential component; and

4 (5) the failure to impute will result in a
5 price squeeze;

6 C. "data services" means a telecommunications or
7 information service that:

8 (1) provides transmission functionality
9 between customers using point-to-point facilities, point-to-
10 multi-point facilities or digital subscriber loop facilities;

11 (2) uses asynchronous transfer mode, packet,
12 frame, cell or equivalent technology-based transmission;

13 (3) permits routing of a packet, frame or
14 cell using addressing information contained within the packet,
15 frame or cell; and

16 (4) uses data conversion protocol;

17 D. "local exchange area" means a geographic area
18 encompassing one or more local communities where local
19 exchange prices apply as described in maps or price lists
20 filed with the commission;

21 E. "long distance service" means public
22 telecommunications service between local exchange areas that
23 both originates and terminates in the state of New Mexico;

24 F. "public telecommunications service" means
25 offering or providing telecommunications for a fee directly to

. 126908. 1

underscored material = new
[bracketed material] = delete

1 the public or to such classes of users as to be effectively
2 available directly to the public, regardless of the facilities
3 used, but "public telecommunications service" does not
4 include:

5 (1) the provision of terminal equipment used
6 to originate or terminate the service;

7 (2) private telecommunications networks;

8 (3) broadcast transmissions by radio,
9 television and satellite broadcast stations regulated by the
10 federal communications commission;

11 (4) radio common carrier services, as defined
12 by federal law, including commercial mobile radio service,
13 wireless services and paging services;

14 (5) internet services; or

15 (6) one-way cable television service as
16 defined by federal law;

17 G. "residence or business dial tone access line
18 service" means a public telecommunications service that
19 provides a residence or business customer with a basic
20 connection to the public switched network for transmission of
21 two-way interactive circuit switched voice communications
22 within a local exchange area;

23 H. "switched access charges" mean the charges paid
24 by telecommunications carriers that provide long distance
25 services to other telecommunications carriers to originate or

underscored material = new
[bracketed material] = delete

1 terminate long distance calls using local telecommunications
2 facilities; and

3 I. "telecommunications" means the transmission,
4 between points specified by the user, of information of the
5 user's choosing, without change in the form or the content of
6 the information as sent and received.

7 Section 4. [NEW MATERIAL] AUTHORITY OF COMMISSION. --

8 A. The commission has exclusive jurisdiction to
9 regulate telecommunications carriers consistent with the
10 provisions of the Telecommunications Investment and Economic
11 Development Act. The commission shall regulate
12 telecommunications carriers, and the prices, terms, conditions
13 and provision of public telecommunications services offered by
14 telecommunications carriers, only in the manner expressly
15 prescribed and to the extent expressly authorized by that act.

16 B. The commission has authority to:

17 (1) promulgate rules as necessary to carry
18 out its duties and responsibilities pursuant to the
19 Telecommunications Investment and Economic Development Act;

20 (2) consider petitions for two-way extended
21 area service between two or more local exchange areas,
22 including the establishment of extended area service
23 surcharges;

24 (3) enforce its rules through administrative
25 sanctions and in the courts;

1 (4) hear complaints alleging violations of
2 the Telecommunications Investment and Economic Development Act
3 or of any rule promulgated or order issued by the commission
4 pursuant to that act; and

5 (5) carry out the duties and responsibilities
6 it is authorized to perform pursuant to federal law.

7 C. The commission may subpoena witnesses and
8 documents and enforce its subpoenas through the district
9 court.

10 D. The commission has the power, after notice and
11 hearing, to decide questions and issue orders relating to its
12 powers and duties.

13 Section 5. [NEW MATERIAL] PRICES FOR SERVICES OFFERED BY
14 TELECOMMUNICATIONS CARRIERS. --

15 A. Except as provided in Paragraph (2) of
16 Subsection D of this section, no telecommunications carrier is
17 subject to rate of return regulation or to any investigations
18 of its earnings by the commission. In exercising any
19 authority granted to it by the Telecommunications Investment
20 and Economic Development Act, the commission shall not
21 consider the earnings of a telecommunications carrier with
22 respect to the prices for telecommunications services provided
23 by it. The commission has authority over the prices, terms or
24 conditions of public telecommunications services only to the
25 extent expressly provided in this section or in Sections 6 and

. 126908. 1

underscored material = new
[bracketed material] = delete

1 7 of that act.

2 B. Except as provided in this subsection and in
3 Subsections C and D of this section, a telecommunications
4 carrier may establish or change the prices, terms or
5 conditions for its public telecommunications services, or
6 withdraw or terminate the offering of a public
7 telecommunications service, by filing a price list with the
8 commission. Price list filings become effective ten days
9 after filing with the commission. The price list filing
10 requirements of this subsection shall not apply to services
11 that have been deregulated by the commission pursuant to
12 Section 8 of the Telecommunications Investment and Economic
13 Development Act.

14 C. The prices for residence and business dial tone
15 access line services shall be capped for five years from July
16 1, 1999 at the approved prices for those services that were in
17 effect on January 1, 1998. A telecommunications carrier may
18 increase or decrease the price of residence or business dial
19 tone access line service during this five-year period by
20 filing a price list pursuant to Subsection B of this section,
21 but the proposed price shall not exceed the approved price
22 that was in effect for residence or business dial tone access
23 line service on January 1, 1998.

24 D. After July 1, 2004, price increases for
25 residence dial tone access line service of:

. 126908. 1

underscored material = new
[bracketed material] = delete

1 (1) less than three percent in any calendar
2 year become effective after sixty days notice to all affected
3 customers; and

4 (2) more than three percent in any calendar
5 year become effective upon approval by the commission after
6 notice and a hearing.

7 E. The notice of hearing required pursuant to
8 Subsection D of this section shall include the reasons for the
9 proposed price increase. After the hearing, the commission
10 may deny the price increase only if the price increase, when
11 considered with other price changes the telecommunications
12 carrier proposes to make simultaneously with the increase in
13 the price of residence dial tone access line service, will
14 increase the telecommunications carrier's intrastate revenues
15 from non-deregulated public telecommunications services
16 resulting from the proposed price changes by more than one
17 percent. The commission shall issue its findings of fact and
18 conclusions of law within one hundred twenty days after filing
19 with the commission and notice to affected customers.

20 F. The following are not price increases for the
21 purposes of this section:

22 (1) a surcharge pursuant to the
23 implementation of the fund;

24 (2) a charge for mandatory extended-area
25 service ordered by the commission;

underscored material = new
[bracketed material] = delete

1 (3) a charge imposed or allowed by the
2 federal communications commission or by federal law; and

3 (4) a charge necessitated by a state or
4 local tax, assessment or fee or by any action taken by the
5 state, a state agency or by any county or municipal
6 governmental body.

7 G. A telecommunications carrier that serves less
8 than five percent of the state's aggregate, statewide
9 subscriber lines may file an application with the commission
10 requesting the commission to prescribe fair, just and
11 reasonable prices for the telecommunications carrier based on
12 the telecommunications carrier's revenue, expenses and
13 investment in accordance with traditional rate-making
14 principles.

15 H. A telecommunications carrier may decrease the
16 price of a retail public telecommunications service to a level
17 equal to, but not below, the cost of the retail public
18 telecommunications service.

19 I. A telecommunications carrier may offer or
20 discontinue offering packages of services five days after
21 filing notice with the commission. A packaged offering may
22 combine a retail public telecommunications service with
23 another telecommunications service or a non-telecommunications
24 service or offering. Packaged offerings shall be temporary or
25 permanent at the discretion of the telecommunications carrier

underscored material = new
[bracketed material] = delete

1 filing the packaged offering. A telecommunications carrier
2 shall make any retail public telecommunications services
3 included in a packaged offering individually available to
4 customers in its price list.

5 J. A telecommunications carrier may offer or
6 discontinue offering special incentives, discounts, temporary
7 price waivers or other promotions one day after filing notice
8 with the commission. A telecommunications carrier may combine
9 a retail public telecommunications service with another
10 telecommunications service or a non-telecommunications service
11 or offering in order to create a special incentive, discount,
12 temporary price waiver or other promotion. A
13 telecommunications carrier shall make any retail public
14 telecommunications services included in a special incentive,
15 discount, temporary price waiver or other promotion
16 individually available to customers in its price list.

17 K. A telecommunications carrier may offer a public
18 telecommunications service on an individual contract basis to
19 a specific customer upon the filing of a notice with the
20 commission. The notice shall describe the public
21 telecommunications services to be offered, the customer to be
22 served, the price of the services to be offered and an
23 affidavit from a representative of the telecommunications
24 carrier attesting that the prices of the public
25 telecommunications services included in the contract cover

underscored material = new
[bracketed material] = delete

1 their costs. The customer name and location shall, upon
2 request of the applicant, be maintained as confidential
3 information for review only by the commission. The commission
4 shall maintain a public file containing the non-confidential
5 information included in the notice.

6 Section 6. [NEW MATERIAL] COMPLAINTS. --

7 A. The commission has full and express authority
8 to hear and decide complaints filed by any interested person,
9 between end-user customers and their telecommunications
10 carrier, or between two or more telecommunications carriers,
11 alleging:

12 (1) that the price of a public
13 telecommunications service is below cost;

14 (2) a violation of an interconnection
15 agreement approved by the commission;

16 (3) the failure to properly flow through
17 access charge reductions; or

18 (4) a violation of the Telecommunications
19 Investment and Economic Development Act or of a rule
20 promulgated or an order issued pursuant to that act.

21 B. Upon adjudication of a complaint filed pursuant
22 to the Telecommunications Investment and Economic Development
23 Act, the commission may:

24 (1) order a telecommunications carrier to
25 modify the price of a public telecommunications service if the

underscored material = new
[bracketed material] = delete

1 commission determines that the public telecommunications
2 service is priced below the cost of providing that service;

3 (2) subject to the terms of an
4 interconnection agreement, enforce the provisions of
5 interconnection agreements between telecommunications carriers
6 consistent with the requirements of federal law; or

7 (3) review the switched access charges of a
8 telecommunications carrier.

9 C. An action taken by the commission pursuant to
10 this section shall be consistent with federal law, and
11 decisions made by the federal communications commission
12 pursuant to federal law.

13 D. Except with respect to issues relating to the
14 cost of providing a public telecommunications service, the
15 burden shall be on the party complaining to prove the
16 allegations in its complaint. The burden of demonstrating the
17 costs of providing a public telecommunications service shall
18 be upon the telecommunications carrier offering that service.

19 E. A complaint shall be resolved by the commission
20 within ninety days of the date the complaint is filed.

21 Section 7. [NEW MATERIAL] FLOW THROUGH OF REDUCTIONS IN
22 SWITCHED ACCESS CHARGES.--Upon the reduction of switched
23 access charges by a telecommunications carrier, a
24 telecommunications carrier providing long distance service
25 shall reduce the prices of its intrastate long distance

underscored material = new
[bracketed material] = delete

1 services in order to ensure that the long distance prices paid
2 by all classes of New Mexico intrastate long distance
3 customers reflect the total benefit from any access charge
4 reductions. A telecommunications carrier providing long
5 distance services shall apply at least fifty percent of any
6 reductions in switched access charges to lower the prices of
7 its intrastate residence long distance services. The
8 commission shall retain authority over the prices of long
9 distance services to the extent necessary to ensure that
10 telecommunications carriers providing long distance services
11 flow through the total amount of any switched access charge
12 reductions.

13 Section 8. [NEW MATERIAL] DEREGULATION OF DATA SERVICES,
14 LONG DISTANCE SERVICES AND NEW PUBLIC TELECOMMUNICATIONS
15 SERVICES. --

16 A. Data services offered by a telecommunications
17 carrier shall be deregulated and shall not be subject to any
18 regulation by the commission.

19 B. Except as provided in Section 7 of the
20 Telecommunications Investment and Economic Development Act,
21 long distance services offered by a telecommunications carrier
22 shall be deregulated and shall not be subject to any
23 regulation by the commission.

24 C. Any public telecommunications services first
25 offered by a telecommunications carrier after the effective

underscored material = new
[bracketed material] = delete

1 date of the Telecommunications Investment and Economic
2 Development Act, including any new data or long distance
3 services, shall be deregulated and shall not be subject to any
4 regulation by the commission.

5 Section 9. [NEW MATERIAL] INVESTMENT PLAN. -- Within sixty
6 days after July 1, 1999, a telecommunications carrier that
7 serves more than two hundred fifty thousand access lines in
8 the state shall enter into an agreement with the secretary of
9 economic development detailing a specific plan of investments
10 that the telecommunications carrier will make in
11 telecommunications infrastructure in the state over a
12 specified period of time. A telecommunications carrier that
13 serves less than two hundred fifty thousand access lines in
14 the state may enter into such an agreement with the secretary
15 at the telecommunications carrier's discretion. The secretary
16 of economic development shall make an annual report to the
17 legislature detailing the investment commitments made by
18 telecommunications carriers and their impact on economic
19 development within New Mexico.

20 Section 10. [NEW MATERIAL] CERTIFICATION OF
21 TELECOMMUNICATIONS CARRIERS. --

22 A. No public telecommunications service shall be
23 offered within this state except in accordance with the
24 provisions of the Telecommunications Investment and Economic
25 Development Act.

underscored material = new
[bracketed material] = delete

1 B. No public telecommunications service shall be
2 offered in this state without the telecommunications carrier
3 first having obtained certification from the commission.

4 C. The commission shall determine all issues of
5 fact and law relating to the issuance of a certificate of
6 authority. In determining whether to issue a certificate
7 pursuant to this section, the commission shall consider
8 whether the applicant:

9 (1) has sufficient financial resources to
10 provide the proposed public telecommunications service
11 properly and continuously;

12 (2) has competent and experienced management
13 and personnel to provide the proposed public
14 telecommunications service; and

15 (3) is willing and able to conform to the
16 rules applicable generally to providers of public
17 telecommunications services.

18 D. All certificates of public convenience and
19 necessity or certificates of authority or registrations in
20 force on July 1, 1999 shall continue in force and effect
21 subject to the provisions of the Telecommunications Investment
22 and Economic Development Act.

23 E. A certificate of authority issued by the
24 commission pursuant to Subsection C of this section or in
25 force pursuant to Subsection D of this section shall require a

underscored material = new
[bracketed material] = delete

1 telecommunications carrier to provide only residence and
2 business dial tone access line service in any local exchange
3 areas where it is authorized to provide public
4 telecommunications service.

5 Section 11. [NEW MATERIAL] CONSUMER PROTECTIONS. --

6 A. Within nine months from July 1, 1999, the
7 commission shall adopt rules that establish minimum consumer
8 protections applicable to all telecommunications carriers
9 certified to provide public telecommunications services in
10 this state. These rules shall provide for at least:

11 (1) minimum billing disclosures designed to
12 promote customers' comprehension;

13 (2) disclosures and customer notices upon
14 initiation of or change in service or change in price or other
15 service conditions, as appropriate;

16 (3) fair and reasonable credit and collection
17 procedures and practices, including procedures and practices
18 relating to disconnection of service;

19 (4) marketing practices consistent with
20 applicable state and federal law, including prohibition of
21 slamming and cramming;

22 (5) protection of customer proprietary
23 network information consistent with applicable federal and
24 state law; and

25 (6) minimum retail service quality standards

underscored material = new
[bracketed material] = delete

1 for residence and business dial tone access line services
2 applicable to all telecommunications carriers.

3 B. No provider of retail public telecommunications
4 service may use current revenues earned or expenses incurred
5 in conjunction with the provision of its non-deregulated
6 public telecommunications services to subsidize the provision
7 of its deregulated public telecommunications services.

8 Section 12. [NEW MATERIAL] APPEALS. --A person may appeal
9 from an action of the commission in accordance with the
10 provisions of Subsections E, F, G and H of Section 63-7-1.1
11 NMSA 1978.

12 Section 13. Section 63-7-1.1 NMSA 1978 (being Laws 1998,
13 Chapter 108, Section 52) is amended to read:

14 "63-7-1.1 COMMISSION POWERS AND DUTIES--TRANSPORTATION
15 AND TRANSMISSION COMPANIES AND COMMON CARRIERS--TELEPHONE AND
16 TELEGRAPH COMPANIES. --

17 A. With respect to transportation and transmission
18 companies and common carriers, other than telecommunications
19 carriers, the commission shall:

20 (1) fix, determine, supervise, regulate and
21 control all charges and rates of railway, express, telegraph,
22 [~~telephone~~] sleeping car and other transportation and
23 transmission companies and common carriers within the state;

24 (2) determine any matters of public
25 convenience and necessity with respect to matters subject to

underscored material = new
[bracketed material] = delete

1 its regulatory authority as provided by law;

2 (3) require railway companies and other
3 common carriers to provide and maintain adequate equipment,
4 depots, stockpens, station buildings, agents and facilities
5 for the accommodation of shippers and passengers and for
6 receiving and delivering freight and express and to provide
7 and maintain necessary crossings, culverts, sidings and other
8 facilities for convenience and safety whenever in the
9 commission's judgment the public interest demands;

10 (4) require railway companies, transportation
11 companies and common carriers to provide [~~such reasonable~~
12 ~~safety appliances~~] and use [~~such~~] reasonable safety practices
13 [~~as may be~~] necessary and proper for the safety of employees
14 and the public as required by federal or state laws and rules;

15 (5) change, amend and rescind rates;

16 (6) enforce its rules through administrative
17 sanctions and in the courts; and

18 (7) carry out all other duties and have all
19 other powers provided by law.

20 [~~B. In fixing rates of telephone and telegraph~~
21 ~~companies, due consideration shall be given to the earnings,~~
22 ~~investments and expenditures as a whole within the state. The~~
23 ~~commission shall include in that consideration the earnings,~~
24 ~~investments and expenditures derived from or related to the~~
25 ~~sale of directory advertising and other directory listing~~

. 126908. 1

underscored material = new
[bracketed material] = delete

1 ~~services.]~~

2 B. The commission has exclusive jurisdiction to
3 regulate telecommunications carriers only in the manner and to
4 the extent authorized by the Telecommunications Investment and
5 Economic Development Act.

6 C. The commission may subpoena witnesses and
7 documents, enforce its subpoenas through any court and,
8 through the court, punish for contempt.

9 D. The commission has the power, after notice and
10 hearing of record, to determine and decide any question and to
11 issue orders relating to its powers and duties.

12 E. An interested party may appeal from a final
13 order of the commission by filing a notice of appeal with the
14 supreme court asking for review of the order within thirty
15 days of the final order. The appellant shall pay to the
16 commission any costs of preparing and transmitting the record
17 to the court.

18 F. The pendency of an appeal shall not
19 automatically stay the order appealed from. The appellant may
20 seek to obtain a stay from the commission or the supreme
21 court.

22 G. The appeal shall be on the record of the
23 hearing before the commission and shall be governed by the
24 appellate rules applicable to administrative appeals. The
25 supreme court shall affirm the commission's order unless it

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

is:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record; or
- (3) otherwise not in accordance with law.

H. In the case of a failure or refusal of any person to comply with an order of the commission within the time prescribed in the order or within thirty days after the order is entered, whichever is later, unless a stay has been granted, the commission shall seek enforcement of the order in the district court. The enforcement hearing shall be held on an expedited basis. At the hearing, the sole question shall be whether the person has failed to comply with or violated the order. "

Section 14. REPEAL. -- Sections 63-9A-1 through 63-9A-6, 63-9A-6.2 through 63-9A-12, 63-9A-14, 63-9A-16 and 63-9A-20 NMSA 1978 (being Laws 1985, Chapter 242, Sections 1 through 6, Laws 1987, Chapter 21, Section 5, Laws 1985, Chapter 242, Sections 7 and 8, Laws 1998, Chapter 108, Section 61 and Laws 1985, Chapter 242, Sections 9 through 12, 14, 16 and 20, as amended) are repealed.

Section 15. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1999.

1 FORTY- FOURTH LEGISLATURE

SB 408/a

2 FIRST SESSION, 1999

7 February 16, 1999

10 Mr. President:

12 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
13 whom has been referred

15 SENATE BILL 408

17 has had it under consideration and reports same with
18 recommendation that it DO PASS, amended as follows:

21 1. On page 7, line 17, strike the period and insert "
22 except that the business dial tone access line service prices
23 for a telecommunications carrier that serves more than 250,000
24 access lines in New Mexico will have to lower its business dial
25 tone access line service prices to comply with the thirty-nine

. 126908. 1

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SCORC/SB 408

Page 22

dollars (\$39.00) price cap, such price reductions shall satisfy any commission ordered price reduction obligations of the telecommunications carrier prior to the effective date of this act. "

2. On page 7, line 22, strike "or business".

3. On page 7, line 23, strike the period and insert ", or the thirty-nine dollars (\$39.00) cap for business dial tone access line service. ".,

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Roman M. Maes, Chairman

. 126908. 1

FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

SCORC/SB 408

Page 23

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 1 Against

Yes: 6

No: Rawson

Excused: Macias, Robinson, Maes

Absent: None

S0408CT1

. 126908. 1

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3 SB 408/a

4
5
6 February 26, 1999

7
8 Mr. President:

9
10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 SENATE BILL 408, as amended

13
14 has had it under consideration and reports same WITHOUT

15
16 RECOMMENDATION, amended as follows:

17
18 1. Strike all Senate Corporations and Transportation Committee
19 amendments.

20
21 2. On page 5, line 24, strike "its rules" and insert in lieu
22 thereof "applicable laws, rules and orders".

23
24 3. On page 5, line 25, after "sanctions", insert ", including

25 . 126908. 1

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SJC/SB 408

Page 25

those pursuant to Section 63-7-23 NMSA 1978, ".
4
5

6 4. On page 6, between lines 12 and 13, insert the following new
7 subsection:

8
9 "E. Nothing in the Telecommunications Investment and
10 Economic Development Act impairs authority granted to the commission
11 by federal law with respect to wholesale services."
12

13 5. On page 6, strike line 15 after "A.", strike line 16 through
14 "no" and insert in lieu thereof "No".
15

16 6. On page 7, line 1, after the period, insert "After July 1,
17 1999, there is no obligation by a telecommunications carrier to make
18 or satisfy a commission or court ordered price reduction."
19

20 7. On page 7, line 3, strike "C and D" and insert in lieu
21 thereof "C, D and E".
22

23 8. On page 7, line 13, after the period, insert "Prices for 911
24 service shall be established pursuant to applicable provisions of New
25

. 126908. 1

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SJC/SB 408

Page 26

Mexico law and shall not be subject to change by a telecommunications carrier pursuant to this subsection."

9. On page 7, line 14, strike "The" and insert in lieu thereof "Except as provided in Subsection G of this section, the".

10. On page 7, line 17, after "1998" insert ", except that the business dial tone access line service prices for a telecommunications carrier that serves more than two hundred fifty thousand access lines in New Mexico shall be capped at thirty-four dollars(\$34.00) during the five-year period".

11. On page 7, line 22, strike "or business".

12. On page 7, line 23, after "1998" insert ", or the thirty-four dollar (\$34.00) cap for the business dial tone access line service".

13. On page 8, between lines 6 and 7, insert the following new subsection:

"E. Switched access charges of a telecommunications carrier

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SJC/SB 408

Page 27

that serves more than two hundred fifty thousand access lines in the state shall be capped at the approved prices for those services in effect on January 1, 1998. If switched access charges are reduced, either pursuant to the Telecommunications Investment and Economic Development Act or as an offset for a distribution from the New Mexico universal service fund, those services shall be capped at the reduced prices. The commission may increase the price cap for switched access charges upon a showing of good cause after notice and an opportunity for a hearing."

14. Reletter the subsequent subsections accordingly.

15. On page 8, strike line 9 after the period, strike lines 10 through 16 and on line 17, strike "percent."

16. On page 8, line 23, before "fund" insert "New Mexico universal service".

17. On page 9, line 7, after "G.", strike the remainder of the line, strike line 8, strike line 9 through "lines" and insert in lieu thereof "Notwithstanding the provisions of Subsection C of this

. 126908. 1

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SJC/SB 408

Page 28

section, a telecommunications carrier that serves less than two hundred fifty thousand access lines in the state".

18. On page 12, line 2, after the semicolon, insert "or".

19. On page 12, line 6, strike "; or" and insert in lieu thereof a period.

20. On page 12, strike lines 7 and 8.

Respectfully submitted,

Michael S. Sanchez, Chairman

Adopted _____

Not Adopted _____

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SJC/SB 408

Page 29

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 2 Against

Yes: 5

No: McSorley, Sanchez

Excused: Aragon

Absent: None

S0408JU1

. 128081. 2

. 126908. 1

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE

FIRST SESSION

February 28, 1999

SENATE FLOOR AMENDMENT number _____ to SENATE BILL 408, as amended

Amendment sponsored by Senator L. Skip Vernon

1. On page 11, between lines 5 and 6, insert the following subsection:

"M No telecommunications carrier shall require an end-user residence or business customer that uses a residence or business dial tone access line to gain access to the internet to pay local measured usage charges or any other per minute of use charges to gain that access. This provision does not preclude the application of long distance charges by a telecommunications carrier if the end-user residence or business customer must use long distance service to gain access to the internet."

128401. 1

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION

SF1/SB 408

Page 31

L. Skip Vernon

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**FORTY- FOURTH LEGISLATURE
FIRST SESSION**

SF1/SB 408

Page 32

**FORTY- FOURTH LEGISLATURE
FIRST SESSION, 1999**

March 25, 1999

SENATE FLOOR AMENDMENT number _____ to SENATE BILL 408, as amended,

AMENDMENT sponsored by SENATOR RAWSON

1. On page 8, line 1, strike "three" and insert in lieu thereof "two".

2. On page 8, line 4, strike "three" and insert in lieu thereof "two".

128401. 1

underscored material = new
[bracketed material] = del ete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**FORTY-FOURTH LEGISLATURE
FIRST SESSION**

SF1/SB 408

Page 33

Senator Leonard Lee Rawson

Adopted _____

Not Adopted _____

(Chief Clerk)
(Chief Clerk)

Date _____

S0408FS2

128401.1

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY- FOURTH LEGISLATURE

FIRST SESSION

February 28, 1999

SENATE FLOOR AMENDMENT number _____ to SENATE BILL 408, as amended

Amendment sponsored by Senator Manny M Aragon

1. On page 14, line 5, strike "Within sixty", strike lines 6 through 19 and insert in lieu thereof: "On July 1, 1999, a telecommunications carrier that serves more than two hundred fifty thousand access lines in the state shall sign an agreement with the state, to be executed on behalf of the state by the governor, identifying and guaranteeing specific investments in the amount of forty million dollars (\$40,000,000) in telecommunications infrastructure and other equipment that the telecommunications carrier will make, in addition to deploying fiber to Farmington, New Mexico, all to be completed by December 31, 2001. To monitor and review the progress of the deployment of the telecommunications infrastructure and equipment, the telecommunications carrier shall

. 128429. 1

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION

SF1/SB 408, aa

Page 35

report quarterly to the legislative telecommunications investment and economic development committee hereby created. The committee shall have six members from which the members shall elect a chair. The committee is composed of three members of the senate appointed by the president pro tempore of the senate and three members of the house of representatives appointed by the speaker of the house of representatives. No more than two members from either chamber shall be from the same political party. Disputes arising pursuant to the agreement described in this section shall be resolved through binding arbitration before a single arbitrator selected by the presiding judge of the first judicial district. Arbitration may be demanded by either party and, once invoked, shall commence within ten days."

2. On page 15, line 23, after "authority" insert "to provide local exchange service".

128429. 1

underscoring material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION

SF1/SB 408, aa

Page 36

Manny M Aragon

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

128429. 1

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 March 10, 1999

7
8 Mr. Speaker:

9
10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 SENATE BILL 408, as amended

13
14 has had it under consideration and reports same WITHOUT
15 RECOMMENDATION, amended as follows:

16
17 1. Strike Senate Judiciary Committee Amendments 9 through
18 12.

19
20 2. On page 7, strike lines 14 through 23 and insert in lieu
21 thereof:

22 "C. Except as provided in Subsection G of this section:

23
24 (1) the prices for residence dial tone access line
25 services shall be capped for ten years from July 1, 1999 at the
approved prices for those services that were in effect on January
1, 1998;

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/SB 408aa

Page 38

(2) the prices for business dial tone access line services shall be capped for five years from July 1, 1999 at thirty-four dollars (\$34.00) for a telecommunications carrier that serves more than two hundred fifty thousand access lines in New Mexico; and

(3) a telecommunications carrier may increase or decrease the price of dial tone access line services that are capped pursuant to Paragraph (1) or Paragraph (2) of this subsection by filing a price list pursuant to Subsection B of this section, but the proposed price shall not exceed:

(a) for residential dial tone access line services, the price that was in effect on January 1, 1998; and

(b) for business dial tone access line services, thirty-four dollars (\$34.00). "

3. On page 7, line 24, strike "July 1, 2004" and insert in lieu thereof "July 1, 2009".

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/SB 408aa

Page 39

4. On page 9, lines 23 and 24, strike "or a non-telecommunications service".

5. On page 10, line 10, strike "or a non-telecommunications service".

and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HJC/SB 408aa

Page 40

4 The roll call vote was 8 For 1 Against

5 Yes: 8

6 No: Stewart

7 Excused: Luna, T. Taylor, Sanchez

8 Absent: None

11 128948. 2

12 J: \99BillsWP\S0408

128429. 1

underscored material = new
[bracketed material] = delete

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HJC/SB 408aa

Page 41

4 FORTY-FOURTH LEGISLATURE
5 FIRST SESSION, 1999

6
7
8 March 16, 1999

9
10
11 Mr. Speaker:

12 Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom has
13 been referred

14
15 SENATE BILL 408, as amended

16
17 has had it under consideration and reports same with
18 recommendation that it DO PASS, amended as follows:

19 1. Strike Senate Judiciary Committee Amendment 4.

20
21 2. On page 6, between lines 12 and 13, insert the following new
22 subsection:

23 "E. Nothing in the Telecommunications Investment and
24 Economic Development Act impairs any authority granted to the
25 commission by federal law with respect to wholesale services,

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/SB 408aa

Page 42

including:

(1) determining prices for interconnection facilities,
reciprocal compensation and network elements;

(2) establishing resale discounts; and

(3) mediating or arbitrating disputes on open issues
after negotiations between competing telecommunication carriers. "

3. On page 7, strike lines 14 through 23 and insert in lieu
thereof:

"C. Except as provided in Subsection G of this section:

(1) the prices for residence dial tone access line
services offered by a telecommunications carrier that serves more
than two hundred fifty thousand access lines in New Mexico, approved
and in effect on March 1, 1999, shall be reduced by two dollars
forty-eight cents (\$2.48) on July 1, 1999 and capped for ten years
from that date;

(2) the prices for business dial tone access line
services offered by a telecommunications carrier that serves more
than two hundred fifty thousand access lines in New Mexico, approved

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/SB 408aa

Page 43

and in effect on March 1, 1999, shall be reduced by two dollars
forty-eight cents (\$2.48) on July 1, 1999 and capped for five years
from that date; and

(3) a telecommunications carrier may increase or
decrease the prices of dial tone access line services that are capped
pursuant to Paragraph (1) or (2) of this subsection by filing a price
list pursuant to Subsection B of this section, but the proposed price
shall not exceed the capped prices established for business and
residence dial tone access line services pursuant to the
Telecommunications Investment and Economic Development Act. "

4. On page 13, line 23, strike the period and insert in lieu
thereof:

"; provided that, unless unlimited usage of long distance service is
sold for a fixed amount:

(1) the rate for long distance service, including any
switched access charge, shall be calculated and charged on the
incremental unit of one-tenth of a minute; and

(2) any charge for long distance service sold as a
fixed block of time shall be calculated on the incremental unit of
one-tenth of a minute. "

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/SB 408aa

Page 44

5. On page 14, between lines 19 and 20, insert the following new section:

"Section 10. [NEW MATERIAL] EARNINGS FOR CALENDAR YEAR 1998. -- On or before July 15, 1999, the commission shall report to the telecommunications investment and economic development committee the 1998 calendar year earnings of a telecommunications carrier that serves more than two hundred fifty thousand access lines in New Mexico. In making its report on 1998 earnings, the commission shall remove the impact of any revenue reduction required as a result of 1997 earnings. To the extent that the 1998 earnings, adjusted to remove the impact of revenue reductions for 1997 earnings, exceeds its authorized level of earnings by forty million dollars (\$40,000,000), a telecommunications carrier that serves more than two hundred fifty thousand access lines in New Mexico shall amend its agreement with the state to increase the amount of its guaranteed investment by the difference between the amount of the adjusted 1998 earnings and forty million dollars (\$40,000,000).".

6. Renumber the succeeding sections accordingly.

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HJC/SB 408aa

Page 45

4 Respectfully submitted,
5
6
7

8 _____
9 Max Coll, Chairman
10

11 Adopted _____ Not Adopted _____
12 (Chief Clerk) (Chief Clerk)
13

14 Date _____
15

16 The roll call vote was 9 For 7 Against

17 Yes: 9

18 No: Buffett, Coll, Heaton, Parsons, Pearce, JP Taylor, Townsend

19 Excused: Abeyta

20 Absent: None
21

22 . 129147. 1

23 . 128718. 2

24 J:\99BillsWP\S0408
25

. 128429. 1

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY- FOURTH LEGISLATURE
FIRST SESSION

March 18, 1999

HOUSE FLOOR AMENDMENT number _____ to SENATE BILL 408, as amended
Amendment sponsored by Representative Raymond G. Sanchez

1. On page 9, between lines 18 and 19, insert the following new subsection:

"I. On August 1, 1999, a telecommunications carrier that serves more than two hundred fifty thousand access lines in New Mexico shall reduce its average intrastate switched access charges by four million five hundred thousand dollars (\$4,500,000) for qualifying long distance telecommunications carriers. As used in this subsection, "qualifying long distance telecommunications carrier" means a long distance telecommunications carrier that, either in its own name or through an affiliated telecommunications carrier owned by the long distance telecommunications carrier, was certified to provide local telecommunications services in New Mexico and had constructed local telecommunications facilities in New Mexico as of January 1, 1999."

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25.

HF1/SB 408, aa

Page 47

2. Reletter the succeeding subsections accordingly.

3. On page 13, line 18, after the period insert:

"If prior to December 31, 2000, the legislative telecommunications investment and economic development committee certifies that the investment required pursuant to Section 9 of the Telecommunications Investment and Economic Development Act has been made by a telecommunications carrier serving more than two hundred fifty thousand access lines in the state, data services shall be deregulated on December 31, 2000. If no such certification is made by the legislative telecommunications investment and economic development committee prior to December 31, 2000, data service shall not be deregulated until the full investment has been made."

Raymond G. Sanchez

underscoring material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HF1/SB 408, aa

Page 48

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

underscoring = new
~~[bracketed material]~~ = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY- FOURTH LEGISLATURE
FIRST SESSION

March 18, 1999

HOUSE FLOOR AMENDMENT number _____ to SENATE BILL 408, as amended

Amendment sponsored by Representative Ted Hobbs

1. Strike House Appropriations and Finance Committee amendment

3.

2. On page 7, strike lines 14 through 23 and insert in lieu thereof:

"C. Except as provided in Subsection G of this section:

(1) the prices for residence dial tone access line services offered by a telecommunications carrier that serves more than two hundred fifty thousand access lines in New Mexico, approved and in effect on March 1, 1999, shall be reduced by two dollars forty-eight cents (\$2.48) on July 1, 1999 and capped for ten years from that date;

(2) the prices for business dial tone access line

FORTY- FOURTH LEGISLATURE
FIRST SESSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HF1/SB 408, aa

Page 50

services offered by a telecommunications carrier that serves more than two hundred fifty thousand access lines in New Mexico shall be capped for five years from July 1, 1999 at thirty-four dollars (\$34.00); and

(3) a telecommunications carrier may increase or decrease the prices of dial tone access line services that are capped pursuant to Paragraph (1) or (2) of this subsection by filing a price list pursuant to Subsection B of this section, but the proposed price shall not exceed the capped prices established for business and residence dial tone access line services pursuant to the Telecommunications Investment and Economic Development Act. "

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HF1/SB 408, aa

Page 51

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

underscored material = new
~~[bracketed material]~~ = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY- FOURTH LEGISLATURE
FIRST SESSION

March 18, 1999

HOUSE FLOOR AMENDMENT number _____ to SENATE BILL 408, as amended
Amendment sponsored by Representative Ben Lujan

1. Strike House Appropriations and Finance Committee Amendment

4.

2. On page 9, between lines 6 and 7, insert the following new subsection:

"G. The total price of any intrastate retail public telecommunications services purchased by an internet service provider from a telecommunications carrier that serves more than two hundred fifty thousand access lines in New Mexico shall not increase by more than ten percent over the total price approved and in effect on March 1, 1999, for the three-year period starting on July 1, 1999. This subsection shall apply to any intrastate retail public telecommunications services purchased by an internet service provider to connect such an internet service provider to the internet."

129334. 2

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HF1/SB 408, aa

Page 56

3. Reletter the succeeding subsections accordingly.

4. On page 13, line 23, strike the period and insert in lieu thereof:

"; provided that, unless unlimited usage of long distance is sold for a fixed amount, the price for long distance service shall be calculated and charged on the incremental unit of one-tenth of a minute. "

Ben Lujan

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

underscored material = new
[bracketed material] = delete

FORTY- FOURTH LEGISLATURE
FIRST SESSION

1

2 HF1/SB 408, aa

Page 57

3

4

Date _____

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25. 129334. 2

underscoring = new
~~[bracketed material]~~ = delete