

Qwest in New Mexico: Unequal Regulation in a Competitive Environment

Presented to the:

Science, Technology and Telecommunications Interim Committee

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Santa Fe, New Mexico

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Qwest 

2010 Legislative Session--Senate Bill 37

- **SB-37 was an industry bill that proposed to update the 25 year old New Mexico Statute that addresses “effective competition to reflect today’s competitive voice telephone market that is NOT regulated by the PRC.**
 - **Wireless; Cable telephone; Voice over Internet**
- **Provided the PRC with clear direction from the legislature on how to determine effective competition for voice telephone service in New Mexico.**
- **Would benefit both urban and rural New Mexico. Consumer protection and Service Quality maintained.**
- **PRC would retain its authority to set wholesale rates for competitors.**
- **SB-37 was endorsed as a “committee bill” by the Science, Technology and Telecommunications interim committee and the Economic & Rural Development interim committee.**
- **SB-37 was given a message from Governor Richardson, making it germane to the 30-day session.**
- **SB-37 was endorsed by the Public Regulation Commission.**
- **SB-37 was supported by Qwest, Windstream, Verizon Business, and the New Mexico Exchange Carrier Group (NMECG).**
- **SB-37 was opposed by Qwest competitors and a land developer.**
- **The Attorney General took no official position, but voiced concerns.**

2010 Legislative Session
SB-37: Tabled in Senate Judiciary

- **FIR process didn't provide Legislators with accurate information.**
- **Attempts to negotiate mostly resulted in opponents wanting Qwest to add language to the bill that wasn't necessary.**
- **One PRC commissioner actively lobbied against the bill, even though the four other commissioners supported the bill.**

2010 Legislative Session

HB-107--Cost Recovery for Network Facility Relocation

- Applied to all New Mexico telecommunications companies---large companies like Qwest and the small rural companies like Tularosa Basin and Baca Valley.
- Allowed an affected telecommunications company who is required to relocate its network facilities due to federal, state or local projects the ability to recover its “actual” costs for such relocation. The legislation caps the annual allowable recovery at \$1 million.
- The company was required to provide detailed information to the PRC and the PRC was required to investigate and verify.
- HB-107 Endorsed by:
 - *The Science, Technology and Telecommunications interim committee*
 - *Economic & Rural Development interim committee*
 - *Public Regulation Commission.*
- HB-107 was given a message from Governor Richardson, making it germane to the 30-day session.
- *Supported by Qwest, Windstream and the rural telecommunications companies.*
- HB-107 was actively opposed by one PRC commissioner. No other opposition.
- HB-107 died on the Senate Floor on the last day of the session without being heard.

Where are we now?

- Qwest continues to lose access lines---about 6,000 per month.
- 1985 (25-year old) New Mexico Law on Effective Competition is not workable in today's environment. To file a case with the PRC under this old law would result in a decision that focuses on outdated notions of regulation and not on factors that are meaningful to the state of competition in New Mexico. Events from 1985 include:
 - Jan 1st - The Internet's Domain Name System is created.
 - Jan 1st - The first British mobile phone call is made by Ernie Wise to Vodafone.
 - Feb 17th - 1st class postage rises from 20 cents to 22 cents.
 - May 20th - Dow Jones industrial avg closes above 1,300 for 1st time.
 - Nov 20th - Microsoft Windows 1.0 is released.
- Qwest unregulated competitors are growing and continue to have full flexibility to operate in the voice retail market.
- Qwest now regulated under AFOR 3.

Where do we go from here?

- **Unequal regulation in a competitive environment is not productive for business in New Mexico.**
- **Laws from 1985 need to be updated to reflect today's environment.**
- **Companies need be allowed to recover unavoidable relocation costs due to road or other public projects where those costs are not otherwise recoverable.**
- **New Mexico laws on local franchise fees and property value assessment need to be updated to reflect today's environment.**
- **New Mexico is not the first state to address these issues.**
- **Qwest continues to be willing to work with the Legislature, Attorney General and the PRC to develop legislation that will level the playing field.**

Qwest – New Mexico

AFOR1 SASA

Final Results – July 31, 2010

TOTAL INVESTED: **\$258,094,120**

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|--|---------------------|-------|-------------------------|
| – 4(a) High Speed Internet (HSI) Access: | \$94,776,396 | _____ | \$81.3M required |
| – 4(b) Redundant & Diverse Routes: | \$25,370,099 | _____ | (no dollar requirement) |
| – 4(c) Cable Improvements: | \$40,359,668 | _____ | \$30M required |
| – 4(d) Advanced Technologies: | \$64,234,487 | _____ | \$50M required |
| – 4(e) Network Improvements: | \$32,986,244 | _____ | (no dollar requirement) |
| – Audit Expense: | \$367,226 | | |

MAJOR ACCOMPLISHMENTS:

- Exceeded Qwest's \$255M total investment commitment
- 4(a) High Speed Internet Access Project completed Jan 25, 2010, current HSI availability is 86.4% (statewide), exceeding the SASA requirement of 83.0%.
- 4(b) All SASA diverse routes were completed before Aug 1, 2010
- 4(c) Cable Improvements Project completed Oct 31, 2009
- From February 2007 through July 2010, Qwest's Total Spend in New Mexico is over \$678M, including approximately \$420M in non-SASA capital investment and operating expense.