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HOUSE BILL 750

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Jose A. Campos II

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING, REPEALING AND  
ENACTING SECTIONS OF THE NEW MEXICO TELECOMMUNICATIONS ACT TO  
PROVIDE FOR COMPETITION AMONG TELECOMMUNICATIONS PROVIDERS.

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

Section 1. Section 63-9A-3 NMSA 1978 (being Laws 1985,  
Chapter 242, Section 3, as amended) is amended to read:

"63-9A-3. DEFINITIONS.--As used in the New Mexico  
Telecommunications Act:

A. "affordable rates" means local exchange service  
rates that promote universal service within a local exchange  
service area, giving consideration to the economic conditions  
and costs to provide service in such area;

B. "basic business local exchange service" means a  
primary, flat-rated, business, local, one-party, access line

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1 service;

2 C. "basic residential local exchange service" means  
3 a primary, flat-rated, residence, local, one-party, access line  
4 service;

5 [~~B-~~] D. "cable television service" means the one-  
6 way transmission to subscribers of video programming or other  
7 programming service and subscriber interaction, if any, that is  
8 required for the selection of such video programming or other  
9 programming service;

10 [~~E-~~] E. "commission" means the public regulation  
11 commission;

12 [~~D-~~] ~~"competitive telecommunications service" means~~  
13 ~~a service that has been determined to be subject to effective~~  
14 ~~competition pursuant to Section 63-9A-8 NMSA 1978;~~

15 ~~E. "effective competition" means that the customers~~  
16 ~~of the service have reasonably available and comparable~~  
17 ~~alternatives to the service;]~~

18 F. "fund" means the state rural universal service  
19 fund;

20 G. "incumbent local exchange carrier" means a  
21 person or an affiliate of a person that:

22 (1) was authorized to provide local exchange  
23 service on February 8, 1996 or a successor or assignee of the  
24 person or affiliate; or

25 (2) a carrier that will be treated as an

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1 incumbent local exchange carrier if the federal communications  
2 commission determines that the provider or class or category of  
3 carrier shall be treated as an incumbent local exchange carrier  
4 pursuant to 47 U.S.C. 251(H)(2);

5 [G.] H. "local exchange area" means a geographic  
6 area encompassing one or more local communities, as described  
7 in maps, tariffs or rate schedules filed with the commission,  
8 where local exchange rates apply;

9 [H.] I. "local exchange service" means the  
10 transmission of two-way interactive switched voice  
11 communications furnished by a telecommunications company within  
12 a local exchange area;

13 [I.] J. "message telecommunications service" means  
14 telecommunications service between local exchange areas within  
15 the state for which charges are made on a per-unit basis, not  
16 including wide-area telecommunications service, or its  
17 equivalent, or individually negotiated contracts for  
18 telecommunications services;

19 [J.] K. "mid-size carrier" means a  
20 telecommunications company with more than fifty thousand but  
21 less than three hundred seventy-five thousand access lines in  
22 the state;

23 [~~K. "noncompetitive telecommunications service"~~  
24 ~~means a service that has not been determined to be subject to~~  
25 ~~effective competition pursuant to Section 63-9A-8 NMSA 1978;~~]

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1           L. "private telecommunications service" means a  
2 system, including the construction, maintenance or operation  
3 thereof, for the provision of telecommunications service, or  
4 any portion of that service, by a person for the sole and  
5 exclusive use of that person and not for resale, directly or  
6 indirectly. For purposes of this definition, the person that  
7 may use such service includes any affiliates of the person if  
8 at least eighty percent of the assets or voting stock of the  
9 affiliates is owned by the person. If any other person uses  
10 the telecommunications service, whether for hire or not, the  
11 private telecommunications service is a public  
12 telecommunications service;

13           M. "public telecommunications service" means the  
14 transmission of signs, signals, writings, images, sounds,  
15 messages, data or other information of any nature by wire,  
16 radio, lightwaves or other electromagnetic means originating  
17 and terminating in this state regardless of actual call  
18 routing. "Public telecommunications service" does not include  
19 the provision of terminal equipment used to originate or  
20 terminate such service; private telecommunications service;  
21 broadcast transmissions by radio, television and satellite  
22 broadcast stations regulated by the federal communications  
23 commission; radio common carrier services, including mobile  
24 telephone service and radio paging; or one-way cable television  
25 service; and

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1 N. "telecommunications company" means a person that  
2 provides public telecommunications service."

3 Section 2. A new section of the New Mexico  
4 Telecommunications Act is enacted to read:

5 "[NEW MATERIAL] RATES FOR TELECOMMUNICATIONS SERVICES--  
6 PUBLIC NOTICE.--

7 A. Rates for retail public telecommunications  
8 services provided by a telecommunications company shall be  
9 subject to regulation by the commission only in the manner and  
10 to the extent authorized by this section.

11 B. A telecommunications company shall provide price  
12 lists that shall be effective for decreases in retail public  
13 telecommunications services:

14 (1) three days after they are provided to the  
15 commission for all business services other than basic business  
16 local exchange service; or

17 (2) three days after provision to the commission  
18 and posting to the telecommunications company's public web site  
19 for residential service other than basic residential local  
20 exchange service.

21 C. Notwithstanding the provisions of Subsection B of  
22 this section, rates for basic business local exchange service  
23 and basic residential local exchange service shall be either  
24 set or modified in accordance with the incumbent local exchange  
25 carrier's alternative form of regulation plan implemented by

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1 the commission pursuant to Section 63-9A-8.2 NMSA 1978.

2 D. Rates for local exchange service to retail end-  
3 user customers may be reduced to a level in which prices or  
4 rates charged for the service shall cover the average variable  
5 cost for the provision of the service. Any increase in rates  
6 for local exchange service to retail end-user customers shall  
7 be in accordance with the incumbent local exchange carrier's  
8 alternative form of regulation plan implemented by the  
9 commission pursuant to Section 63-9A-8.2 NMSA 1978.

10 E. A telecommunications company operating pursuant to  
11 this section may offer or discontinue offering special  
12 incentives, discounts, packaged offerings, temporary rate  
13 waivers or other promotions or offer individual contracts."

14 Section 3. REPEAL.--Section 63-9A-8 NMSA 1978 (being Laws  
15 1985, Chapter 242, Section 8, as amended) is repealed.