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HOUSE BILL 107

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Roberto "Bobby" J. Gonzales

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE
AND THE ECONOMIC AND RURAL DEVELOPMENT COMMITTEE

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING THE NEW MEXICO
TELECOMMUNICATIONS ACT TO PERMIT THE ALLOCATION OF RELOCATION
COSTS TO TELECOMMUNICATIONS COMPANY CUSTOMERS.

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

Section 1. A new section of the New Mexico

Telecommunications Act is enacted to read:

"[NEW MATERIAL] ALLOCATION OF RELOCATION COSTS TO
CUSTOMERS--COMMISSION AUDIT.--

A. Notwithstanding any other provision of law,
telecommunications companies shall be entitled to recover from
their retail customers, without a request for a change in
rates, the actual costs incurred for the alteration, change,
moving or relocation of infrastructure or facilities requested
by the state or a political subdivision or instrumentality of

.179890.3

underscored material = new
[bracketed material] = delete

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1 the state. Thirty days prior to assessing retail customers a
2 fee to recover actual costs incurred for the alteration,
3 change, moving or relocation of infrastructure or facilities
4 requested by the state or a political subdivision or
5 instrumentality of the state, a telecommunications company
6 shall notify the commission in writing of the imposition of the
7 fee that the company intends to impose on the company's retail
8 customers and shall show the fee as a separate line item on the
9 customer's bill.

10 B. Upon petition by an interested party or on its
11 own motion, the commission may conduct an investigation to
12 verify that a fee imposed by a telecommunications company
13 recovers the actual costs incurred. In such an investigation,
14 the commission shall verify the actual costs that may be
15 recovered from the telecommunications company's retail
16 customers. In the event the commission, based on evidence
17 presented at a hearing, finds that a telecommunications company
18 is not recovering its actual costs incurred, the commission
19 shall order modifications or adjustments to a fee imposed
20 pursuant to this section so that the telecommunications company
21 may recover its actual costs.

22 C. As used in this section:

23 (1) "actual costs" includes all capital and
24 non-capital costs, not otherwise recoverable, incurred to
25 relocate infrastructure or facilities as well as all costs

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[bracketed material] = delete

1 incurred to remove any infrastructure or facilities up to a
2 maximum amount in any twelve-month period of one million
3 dollars (\$1,000,000); "actual costs" does not include the cost
4 of upgrading the facility being relocated; and

5 (2) "infrastructure or facilities" includes
6 infrastructure or facilities used to provide interstate and
7 intrastate services, including regulated, unregulated and
8 deregulated services."

9 Section 2. APPLICABILITY.--The provisions of this act
10 shall apply to costs incurred after July 1, 2010 to relocate
11 infrastructure or facilities as well as all costs incurred
12 after July 1, 2010 to remove any infrastructure or facilities.

13 Section 3. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2010.