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HOUSE BILL 23

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

Debbie A. Rodella

AN ACT

RELATING TO TELECOMMUNICATIONS; SETTING REASONABLE RATES FOR  
INCUMBENT RURAL TELECOMMUNICATIONS CARRIERS.

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

SECTION 1. Section 63-9H-7 NMSA 1978 (being Laws 1999,  
Chapter 295, Section 7, as amended) is amended to read:

"63-9H-7. REGULATION OF RETAIL RATES OF INCUMBENT RURAL  
TELECOMMUNICATIONS CARRIER.--

A. Rates for retail rural public telecommunications  
services provided by an incumbent rural telecommunications  
carrier shall be subject to regulation by the commission only  
in the manner and to the extent authorized by this section.

B. An incumbent rural telecommunications carrier  
shall file tariffs for all retail public telecommunications  
services that, other than residential local exchange service,

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1 shall be effective after ten days' notice to its customers and  
2 the commission. An incumbent rural telecommunications carrier  
3 shall remain subject to complaint by an interested party  
4 subject to Section 63-9H-10 NMSA 1978.

5 C. An incumbent rural telecommunications carrier  
6 may increase its rates for residential local exchange service  
7 in the manner provided in Subsection B of this section to  
8 comply with requirements imposed by any federal or state law or  
9 rule. The procedures of Subsections D, E and F of this section  
10 shall not apply to increases under this subsection.

11 D. Except as provided in Subsection C of this  
12 section, rates for residential local exchange service may be  
13 increased by an incumbent rural telecommunications carrier only  
14 after sixty days' notice to all affected subscribers. The  
15 notice of increase shall include:

- 16 (1) the reasons for the rate increase;  
17 (2) a description of the affected service;  
18 (3) an explanation of the right of the  
19 subscriber to petition the commission for a public hearing on  
20 the rate increase;  
21 (4) a list of local exchange areas that are  
22 affected by the proposed rate increase; and  
23 (5) the dates, times and places for the public  
24 informational meetings required by this section.

25 E. An incumbent rural telecommunications carrier

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1 that proposes to increase its rates for residential local  
2 exchange service pursuant to Subsection D of this section shall  
3 hold at least one public informational meeting in each public  
4 regulation commissioner's district, as established by the  
5 Public Regulation Commission Apportionment Act, in which there  
6 is a local exchange area affected by the rate change.

7 F. Residential local exchange service rates  
8 increased by an incumbent rural telecommunications carrier  
9 pursuant to Subsections D and E of this section shall be  
10 reviewed by the commission only upon written protest signed by  
11 two and one-half percent of all affected subscribers or upon  
12 the commission staff's own motion for good cause. The protest  
13 shall specifically set forth the particular rate or charge as  
14 to which review is requested, the reasons for the requested  
15 review and the relief that the persons protesting desire. If a  
16 proper protest is presented to the commission within sixty days  
17 from the date notice of the rate change was sent to affected  
18 subscribers of an incumbent rural telecommunications carrier,  
19 the commission may accept and file the complaint and, upon  
20 proper notice, may suspend the rates at issue during the  
21 pendency of the proceedings and reinstate the rates previously  
22 in effect and shall hold and complete a hearing thereon within  
23 ninety days after filing to determine if the rates as proposed  
24 are fair, just and reasonable. The commission may, within  
25 sixty days after close of the hearing, enter an order adjusting

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1 the rates at issue, except that the commission shall not set  
2 any rate below the intrastate cost of providing the service,  
3 which shall include the cost methodology and rate of return  
4 authorized by the federal communications commission. In the  
5 order, the commission may order a refund of amounts collected  
6 in excess of the rates and charges as approved at the hearing,  
7 which may be paid as a credit against billings for future  
8 services. If the complaint is denied, the commission shall  
9 enter an order denying the complaint within sixty days after  
10 the close of the hearing, and the rates shall be deemed  
11 approved. For purposes of this section, cost shall also  
12 include a reasonable amount of joint and common costs incurred  
13 by the telecommunications carrier in its operations and may  
14 include other accounting adjustments authorized by the  
15 commission.

16 G. An incumbent rural telecommunications carrier  
17 may at any time elect to file an application with the  
18 commission requesting the commission to prescribe fair, just  
19 and reasonable rates for the carrier, based on [~~the carrier's~~  
20 ~~revenue, expenses and investment in accordance with traditional~~  
21 ~~rate-making principles~~] factors that may include the carrier's  
22 revenues, expenses or investment, in a manner consistent with  
23 the policy calling for relaxed regulation of incumbent rural  
24 telecommunications carriers expressed in Section 63-9H-2 NMSA  
25 1978 and Subsection C of Section 63-9H-4 NMSA 1978. The

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1 commission shall decide cases filed under this subsection with  
2 reasonable promptness but no later than nine months following  
3 the filing of an application, unless the commission finds that  
4 a longer time will be required, in which case the commission  
5 may extend the period for an additional three months.

6 H. Rates for local exchange, vertical and long  
7 distance service to retail end-user customers may be reduced to  
8 a level equal to, but not below, the intrastate cost, which  
9 shall include the cost methodology and rate of return  
10 authorized by the federal communications commission. If an  
11 incumbent rural telecommunications carrier loses its exemption  
12 pursuant to Section 251 of the federal act, the rate for a  
13 service, excluding basic service, must cover the cost of the  
14 service, including the imputed rate of wholesale service  
15 elements as may be required by the commission. The cost of  
16 long distance service must also include any interexchange  
17 access rates charged to another telecommunications carrier for  
18 the service.

19 I. An incumbent rural telecommunications carrier  
20 operating pursuant to this section shall have the ability to  
21 offer or discontinue offering special incentives, discounts,  
22 packaged offerings, temporary rate waivers or other promotions,  
23 or to offer individual contracts."

24 SECTION 2. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2014.

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