

CHAPTER 413

PUBLIC UTILITIES

SENATE BILL 03-238

BY SENATOR(S) Chlouber;
also REPRESENTATIVE(S) Stengel, Larson, Miller, Rose, and Williams S.

AN ACT

CONCERNING THE RECOVERY OF ACTUAL COSTS OF UTILITY FACILITY RELOCATION AT THE REQUEST OF A GOVERNMENT ENTITY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 3 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

40-3-115. Recovery of utility relocation costs. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY AND COUNTY, CITY, TOWN, HOME RULE CITY, HOME RULE TOWN, SERVICE AUTHORITY, SCHOOL DISTRICT, LOCAL IMPROVEMENT DISTRICT, LAW ENFORCEMENT AUTHORITY, WATER, SANITATION, FIRE PROTECTION, METROPOLITAN, IRRIGATION, DRAINAGE, OR OTHER SPECIAL DISTRICT, OR ANY OTHER KIND OF MUNICIPAL, QUASI-MUNICIPAL, OR PUBLIC ORGANIZATION ORGANIZED PURSUANT TO LAW.

(b) "STATE" MEANS THE STATE GOVERNMENT, ANY STATE AGENCY, STATE DEPARTMENT, STATE INSTITUTION, OR STATE-LEVEL AUTHORITY.

(2) (a) NOTWITHSTANDING THE PROVISIONS OF SECTION 40-15-502 (3) (b) (I) TO (3) (b) (V), LOCAL EXCHANGE PROVIDERS OF BASIC LOCAL EXCHANGE SERVICE SUBJECT TO REGULATION PURSUANT TO PART 2, PART 3, OR PART 5 OF ARTICLE 15 OF THIS TITLE MAY REQUEST AUTHORIZATION FROM THE COMMISSION TO RECOVER THE ACTUAL COSTS INCURRED FOR THE RELOCATION OF INFRASTRUCTURE OR FACILITIES REQUESTED BY THE STATE OR A POLITICAL SUBDIVISION. ACTUAL COSTS ARE THE NON-FACILITY COSTS INCURRED IN THE RELOCATION PLUS THE UNDEPRECIATED AMOUNT OF THE FACILITIES BEING REPLACED. RECOVERY OF ACTUAL COSTS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

INCURRED FOR RELOCATION IS INTENDED FOR THOSE STATE AND POLITICAL SUBDIVISION REQUESTS THAT ARE DETERMINED BY THE COMMISSION TO BE BEYOND THE NORMAL COURSE OF BUSINESS.

(b) THE COMMISSION SHALL VERIFY THE ACTUAL COSTS THAT MAY BE RECOVERED, DETERMINE THE ALLOCATION OF COSTS TO VARIOUS CUSTOMERS AND SERVICES, AND PRESCRIBE THE METHOD OF SUCH RECOVERY. IN NO EVENT SHALL THE PERIOD OF RECOVERY OF THE RELOCATION COSTS EXCEED THREE YEARS.

(c) IN DETERMINING THE ALLOCATION OF THE COSTS TO BE RECOVERED, THE COMMISSION SHALL CONSIDER THE JURISDICTION REQUIRING THE RELOCATION AND THE GEOGRAPHIC AREA THAT MOST DIRECTLY BENEFITS FROM THE REQUIRED RELOCATION TO DETERMINE THE CUSTOMERS OR SERVICES THAT WILL BEAR THE COSTS.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: June 5, 2003