

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 11 TELECOMMUNICATIONS**  
**PART 22 QUALITY OF SERVICE**

**17.11.22.1 ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[17.11.22.1 NMAC - Rp, 17.11.22.1 NMAC, 2-1-06]

**17.11.22.2 SCOPE:** This rule applies to all local exchange carriers, except incumbent rural telecommunications carriers, authorized by the commission to provide retail telecommunications services in New Mexico, except that 17.11.22.18 NMAC applies to all carriers offering operator assistance in New Mexico.

**A.** Where the commission has approved an alternative form of regulation plan for an ILEC, and a provision in the approved plan is inconsistent with a provision in this rule, the provision in the approved plan shall apply.

**B.** Where the commission has approved an alternative form of regulation plan for an ILEC, and the approved plan is silent with respect to the subject matter of a provision in this rule, the provision in this rule shall apply.

[17.11.22.2 NMAC - Rp, 17.11.22.2 NMAC, 2-1-06]

**17.11.22.3 STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4, 8-8-15, 63-9A-8.2, 63-9B-4, and 63-9B-6.

[17.11.22.3 NMAC - Rp, 17.11.22.3 NMAC, 2-1-06]

**17.11.22.4 DURATION:** Permanent.

[17.11.22.4 NMAC - Rp, 17.11.22.4 NMAC, 2-1-06]

**17.11.22.5 EFFECTIVE DATE:** February 1, 2006, unless a later date is cited at the end of a section.

[17.11.22.5 NMAC - Rp, 17.11.22.5 NMAC, 2-1-06]

**17.11.22.6 OBJECTIVE:** The purpose of this rule is to establish standards, procedures, reporting requirements, penalties, and customer credits to ensure that carriers provide telecommunications services to retail customers at an adequate quality of service level and in a manner consistent with the promotion of universal service.

[17.11.22.6 NMAC - Rp, 17.11.22.6 NMAC, 2-1-06]

**17.11.22.7 DEFINITIONS:** As used in this rule:

**A. access line** means a dial tone line that provides local exchange service from a carrier's switching equipment to a point of termination at the customer's network interface;

**B. answer** means a company representative is ready to assist the customer or is ready to accept information necessary to process the call;

**C. basic local exchange service** means the customer's voice grade access to the public switched network, dual tone multifrequency (DTMF) signaling or its functional equivalent, and access to emergency services (911 and E-911), operator services, toll services, directory assistance, and toll blocking services for qualifying low income customers;

**D. busy hour** means the uninterrupted period of sixty (60) minutes during the day when traffic is at a maximum;

**E. carrier** means any person that furnishes telecommunications service to the public subject to the jurisdiction of the commission, regardless of the facilities used and regardless of whether the person relies in part or entirely on another carrier's facilities;

**F. circumstances beyond the reasonable control of an ILEC** means delays caused by:

(1) a vendor in the delivery of necessary equipment or supplies, where the ILEC has made a timely order of the equipment or supplies;

(2) local or tribal government entities in approving easements or access to rights-of-way, where the ILEC has made a timely application for such approval;

(3) the customer;

(4) negligent or willful misconduct by third parties not in privity with the ILEC; or

(5) force majeure (meaning causes which are outside the control of the ILEC and could not be avoided by the exercise of due care, including but not limited to terrorism, explosions, fires, floods, severe storms,

epidemics, civil unrest, wars, injunctions, strikes, work stoppages, and other emergencies and catastrophes);

**G. competitive local exchange carrier (CLEC)** means a carrier that provides competitive local exchange service in its service area and is not an ILEC;

**H. customer** means any person that has applied for or is currently receiving telecommunications services;

**I. designed services** means the provisioning of regulated circuits requiring treatment, equipment, or engineering design purchased from an ILEC's tariff or on an individual contract basis, including but not limited to analog private line services, DDS, DS-1 (including channelized), DS-3, ISDN-BRI, and special assemblies, where all facilities and equipment provided are physically located in the state of New Mexico;

**J. discretionary services** means voice mail, caller ID, caller name ID, call waiting, 3-way calling, call forwarding, call return, call blocker, and auto redial, and any similar service sold as an add-on to a customer's basic local exchange service;

**K. end office switch** means a switch to which a telephone subscriber is connected; frequently referred to as a class 5 office, it is the last central office before the subscribers (sic) phone equipment and is the switch that actually delivers dial tone to the subscriber;

**L. facilities-based CLEC** means a CLEC providing local exchange service that relies predominantly on its own facilities, including switching equipment, to route calls for at least twenty-five (25) percent of the local exchange access lines it serves;

**M. held order** means any order for telecommunications service that is not filled within the time frames set forth in 17.11.22.14 NMAC or within fifteen (15) calendar days of the time frames set forth in 17.11.22.12;

**N. high density zone** means all wire centers that the ILEC has classified within its lowest cost density pricing zone pursuant to 47 C.F.R. Section 69.123;

**O. incumbent local exchange carrier (ILEC)** means a person, or an affiliate of a person, that was authorized to provide local exchange service in New Mexico on February 8, 1996, or a successor or assignee of the person or affiliate; a carrier will also be treated as an ILEC if the federal communications commission determines that such provider (or class or category of carrier) shall be treated as an ILEC pursuant to 47 U.S.C; Section 251(h)(2) but does not include an incumbent rural telecommunications carrier;

**P. incumbent rural telecommunication carrier (IRTC)** has the meaning given in NMSA 1978 Section 63-9H-3;

**Q. installation commitment** means a date pledged by a LEC to provide basic local exchange service or designed services to a customer;

**R. local exchange carrier (LEC)** includes incumbent local exchange carriers and competitive local exchange carriers;

**S. low density zone** means all wire centers that the ILEC has classified within any zone other than the lowest cost density pricing zone pursuant to 47 C.F.R. Section 69.123;

**T. primary local exchange line** means the first exchange access line installed by a LEC to serve a customer at the customer's premises, as distinct from additional lines that may be ordered at the same or a subsequent time at the same premises;

**U. repeat trouble report** means a trouble report received within thirty (30) days of a closed trouble report on the same line regarding the same trouble;

**V. tandem switch** (local, access, or toll) means an intermediary switch or connection other than the end office switch between an originating call location and the final destination of a call; it serves to connect end office switches without the need for direct interoffice trunking;

**W. trouble report** means notification of trouble or perceived trouble by a subscriber, third party, or employee acting on behalf of a subscriber to a LEC's repair office; it shall include troubles reported on access lines by the LEC's own retail customers and the retail customers of LECs that purchase wholesale services from the LEC but shall not include troubles associated with customers' unfamiliarity with new features or customer premises equipment, or extraordinary or abnormal conditions of operation;

**X. wire center** means a facility where local exchange access lines converge and are connected to a switching device which provides access to the public switched network, and includes remote switching units and host switching units.

[17.11.22.7 NMAC - Rp, 17.11.22.7 NMAC, 2-1-06]

**17.11.22.8 REPORTING REQUIREMENTS FOR ILECS:** Unless otherwise specified, an ILEC shall provide data both by wire center listed alphabetically by name, and on a statewide average basis. An ILEC shall

submit all reports to the commission in printed and electronic spreadsheet format. An ILEC shall file separate reports for nondesigned and designed services for the categories specified in subsections A through F. An ILEC shall file reports quarterly, except for held order reports, which shall be filed monthly, but shall compile data on a monthly basis. Reports shall be filed with the commission within thirty (30) days of the period covered by the report.

**A. Trouble reports.** An ILEC shall maintain an accurate and complete record of all trouble reports, categorized as out-of-service trouble reports or all other trouble reports, and shall note the wire center associated with each trouble report. Trouble reports received after 4:00 p.m. Monday through Friday shall be deemed received at 8:00 a.m. the following business day. Each ILEC shall report the number of trouble reports in each category received at each wire center and the number of access lines in service at each wire center.

**B. Trouble report rate.** An ILEC shall report the trouble report rate for out-of-service and all other trouble reports for each wire center (number of trouble reports per hundred access lines per wire center) and, where applicable, the reason a wire center exceeded the trouble report rate.

**C. Trouble reports cleared.** An ILEC shall report the percentage of out-of-service and all other trouble reports cleared by each wire center within twenty-four (24) hours, and the average repair interval for out-of-service trouble reports.

**D. Repeat trouble report rate.** An ILEC shall report the repeat trouble report rate for out-of-service and all other trouble reports for each wire center (number of repeat trouble reports per hundred access lines per wire center) and, where applicable, the reason a wire center exceeded the applicable repeat trouble report rate.

**E. Installation of primary local exchange lines within established time frames.** An ILEC shall calculate and report by wire center the percentage of orders for primary local exchange lines installed within the time frames established in 17.11.22.12 NMAC, excluding installations not completed due to circumstances beyond the reasonable control of the ILEC or for which a waiver or variance has been granted.

**F. Average repair interval.** An ILEC shall report, by wire center, the average interval for repairing service.

**G. Held orders.**

**(1) Non-designed services.** An ILEC shall report, by wire center and on a statewide average basis, the number of held orders for non-designed services in each of the following categories, and shall, upon request of the commission, provide an explanation for the level of held orders in any particular category. For primary local exchange lines, an ILEC shall also report the number of held orders as a percentage of the total switched access lines in service each month:

- (a) total;
- (b) business customers;
- (c) residence customers;
- (d) primary local exchange lines;
- (e) additional lines;
- (f) orders held for 15-30 days;
- (g) orders held 31-90 days;
- (h) orders held 91-180 days;
- (i) orders held over 180 days;
- (j) orders for which waiver petitions are pending or have been granted; and
- (k) orders cancelled by the customer.

**(2) Designed services.** An ILEC shall report the number of held orders for designed services in each of the following categories and shall, upon request of the commission, provide an explanation for the level of held orders in any particular category:

- (a) wire center;
- (b) orders held for 15-30 days;
- (c) orders held for 31-90 days;
- (d) orders held for 91-180 days;
- (e) orders held for over 180 days;
- (f) orders for which waiver petitions are pending or have been granted; and
- (g) orders cancelled by the customer.

**H. Business office and repair office answer time.** An ILEC shall report separately for its business office and its repair office the percentage of calls answered within the time frames specified in 17.11.22.20 NMAC.

**I. Carrier profile.** No later than March 1 of each year, ILECs shall also report the following information to the commission, based on its operations as of December 31 of the previous year:

- (1) total number of switched access lines in service;
- (2) total number of residence switched access lines in service;
- (3) total number of business switched access lines in service; and
- (4) total number of orders received.

[17.11.22.8 NMAC - Rp, 17.11.22.8 NMAC, 2-1-06]

**17.11.22.9 OUTAGES:**

**A.** A LEC shall report outages affecting more than one thousand five hundred (1500) customers and lasting longer than thirty (30) minutes to the consumer relations division of the commission by telephone, facsimile, e-mail, or in person within ninety (90) minutes of the onset of the outage, or, for outages not occurring during business hours, at the start of the next business day.

**B.** A LEC shall submit a subsequent written report stating the location, duration, number of customers affected, cause and corrective action taken. Both the initial and subsequent outage reports shall state whether 911 circuits were affected.

**C.** A LEC shall file on a quarterly basis a record of each outage in the preceding three (3) months for which the LEC was unable to provide emergency service and an explanation of why emergency service was unavailable.

[17.11.22.9 NMAC - Rp, 17.11.22.9 NMAC, 2-1-06]

**17.11.22.10 PROVISION OF SERVICE DURING MAINTENANCE OR EMERGENCIES:**

**A. Emergency procedures.** Each ILEC and facilities-based CLEC shall establish, and instruct its employees regarding, procedures for preventing or mitigating interruption to or impairment of telecommunications service in emergencies resulting from power failures, sudden and prolonged increases in traffic, illness of operators, or force majeure. ILECs and facilities-based CLECs shall file written plans detailing their emergency procedures with the telecommunications bureau of the commission no later than sixty (60) days after certification by the commission. Any changes to the plan shall be filed with the telecommunications bureau of the commission within thirty (30) days of the change.

**B. Reserve power requirements.** ILECs and facilities-based CLECs shall maintain in each local wire center, toll switching office, and tandem switching office a minimum of four (4) hours of battery reserve rated for peak traffic load requirements and shall:

(1) install a permanent auxiliary power unit in toll and tandem switching offices and in wire centers serving 10,000 or more access lines;

(2) have available a mobile power unit which normally can be delivered and connected within four (4) hours or the time limit of the available battery reserve for wire centers serving fewer than 10,000 lines.

**C. Maintenance scheduling.** ILECs and facilities-based CLECs shall schedule maintenance requiring extended service interruptions when it will cause minimal inconvenience to customers. To the extent possible, ILECs and facilities-based CLECs shall notify customers in advance of extended service interruptions. Based upon their prior experience, ILECs and facilities-based CLECs shall make emergency service available in any area that may experience service interruptions affecting 1,000 or more access lines and lasting more than four (4) hours between the hours of 8:00 a.m. to 10:00 p.m. If an ILEC or facilities-based CLEC cannot provide emergency service, it shall file a report of the service interruption with the telecommunications bureau of the commission.

**D. Loss of switch plan.** Each ILEC and facilities-based CLEC shall develop a contingency plan to prevent or minimize service interruptions due to the loss of a wire center switch that serves more than 10,000 access lines or is the toll or tandem switching office for 10,000 access lines. The plan shall describe the actions and systems installed to prevent or minimize the probability of such an occurrence as well as the actions and systems available to minimize the extent of any incurred service interruption. ILECs and facilities-based CLECs shall file the plans with the telecommunications bureau of the commission no later than sixty (60) days after certification by the commission. Any changes to the plan shall be filed with the telecommunications bureau within thirty (30) days of the change.

[17.11.22.10 NMAC - Rp, 17.11.22.10 NMAC, 2-1-06]

**17.11.22.11 ACCESS TO AND AUDIT OF DATA:** Unless otherwise authorized by the commission, a LEC shall make all records required by this rule available to the commission, staff, or its authorized representatives at any time upon reasonable notice. A LEC shall make customer proprietary network information available to the commission to the extent allowed by law. A LEC shall retain records of reports, measurements, summaries, and backup information for at least two (2) years. The commission or staff may periodically audit a LEC's quality of

service data.

[17.11.22.11 NMAC - Rp, 17.11.22.11 NMAC, 2-1-06]

**17.11.22.12 INSTALLATION OF BASIC LOCAL EXCHANGE SERVICE:**

**A. Order tracking.** At the time of each service order, a LEC shall provide to each applicant for basic local exchange service a unique indicator that will permit an applicant to track and verify the order.

**B. Premises within 1000 feet of distribution terminal.**

(1) Whenever an ILEC receives an application for installation of a primary local exchange line for a premises that is within 1000 feet of a distribution terminal, the ILEC shall provision service within five (5) business days of receipt of the service request, or by such later date as the customer may request.

(2) When an ILEC cannot fill an order for a primary local exchange line within ten (10) business days of receipt of the order, it shall provide written notice to the customer noting the date of the service order and stating the expected installation date and the reason for the delay. This notice must be postmarked within ten (10) business days of the date the service order is received by the ILEC. The ILEC shall promptly notify the customer of any changes in the expected installation date.

**C. Premises 1000 feet or more from distribution terminal.** Whenever an ILEC receives an application for installation of a primary local exchange line for a premises that is 1000 feet or more from a distribution terminal, the ILEC shall provision service within thirty (30) business days of receipt of the service request, or by such later date as the customer may request, unless installation cannot be completed due to circumstances beyond the reasonable control of the ILEC.

**D. Line extension policy.** Each ILEC shall file its line extension policy for commission review and approval by March 1, 2001 and shall file any subsequent material changes to the policy for commission review and approval in accordance with commission procedures for tariff changes.

[17.11.22.12 NMAC - Rp, 17.11.22.12 NMAC, 2-1-06]

**17.11.22.13 ALTERNATIVE SERVICE:** An ILEC shall provide alternative service to a customer whose order is held, unless the customer was the cause of the delay.

**A.** Where wireless phone service or equivalent service is available, an ILEC shall offer to pay for the customer to receive such service.

(1) The ILEC shall cover all nonrecurring charges, including charges for the wireless handset, all monthly recurring charges, and unlimited local calling until the ILEC completes the service request. The ILEC may supply the customer with a wireless handset and a prearranged service plan or a voucher to obtain the same from a third party.

(2) The customer shall be responsible for paying roaming and long distance charges.

**B.** Where wireless phone service or equivalent service is not available, the ILEC shall offer the customer free of charge a telephone number, a listing, and the customer's choice of either:

(1) free remote call forwarding of that number until service is provided; or

(2) a free voice mailbox to which the customer's calls may be directed until service is provided.

[17.11.22.13 NMAC - Rp, 17.11.22.13 NMAC, 2-1-06]

**17.11.22.14 INSTALLATION OF DESIGNED SERVICES:**

**A. Confirmation of service order.** Within three (3) business days of receipt of a customer's order for designed services, an ILEC shall notify the customer of the proposed installation date and the customer's remedies for the ILEC's failure to meet the proposed installation date.

**B. Held order standard.** An ILEC shall complete eighty-five (85) percent of installations for designed services in accordance with the installation intervals set forth in subsections C and D of this section.

**C. Installation interval – facilities available.** Where facilities exist, the installation interval shall be ten (10) business days.

**D. Installation interval – new facilities required.** Where new facilities are needed to provide designed service, the ILEC shall install the service within forty-five (45) calendar days, unless the customer requests a later date. If the order is not completed within forty-five (45) calendar days or the later date requested by the customer, the customer shall receive a credit of the nonrecurring charge except when the ILEC can establish that delay was caused by circumstances beyond its reasonable control.

(1) When the delay is caused by circumstances beyond the ILEC's reasonable control and the commission has granted a waiver of the held order standard pursuant to 17.11.22.25 NMAC, the period of delay shall be added to the time period allowed for installation of the service.

(2) An ILEC shall report any case in which it claims the delay is caused by circumstances beyond the reasonable control of the ILEC to the affected customer who shall have the right to challenge the exception.

**E. Credits for failure to comply with installation interval.** The following credits shall apply when an ILEC fails to meet designed services installation intervals during the preceding calendar year.

| % installed within installation interval | Amount per day late to be credited to customer for failure to meet held order standard |
|--|--|
| 85% to 100%                              | no credit applies  |
| 75% to 84%                               | \$ 200   |
| 65% to 74%                               | \$ 500   |
| 55% to 64%                               | \$1,000  |
| 45% to 54%                               | \$1,500  |
| 35% to 44%                               | \$3,000  |
| 0 to 34%                                 | \$5,000  |

**F. Calculation and payment of credits.** By February 1 of each year, beginning in 2002, the ILEC shall submit a report showing its calculation of the credits specified in subsection E of this section, and shall, no later than March 15 of that year, apply the appropriate credit to the bill of each customer who experienced a held order during the prior calendar year. If the customer is no longer a customer of record as of the date the credit is issued, the ILEC shall mail payment to the former customer.

[17.11.22.14 NMAC - Rp, 17.11.22.14 NMAC, 2-1-06]

**17.11.22.15 OUT-OF-SERVICE CREDITS FOR DESIGNED SERVICES:**

**A.** When service is out for the designated time period, then unless the customer caused the out-of-service condition, an ILEC shall credit the stated amount to the customer's account, unless otherwise determined by customer contract.

| Period out of service, in clock hours, whether continuous or discontinuous | Credit for DS-1 services   | Credit for DS-3 services  | Credit for ISDN-BRI services |
|--|--|---|------------------------------|
| Less than 4 hours in a 12 hour period                                      | no credit  | no credit   | no credit                    |
| 4 to 8 hours in a 24 hour period   | \$120  | \$1000  | no credit                    |
| 8 to 16 hours in a 36 hour period  | \$210  | \$2100  | no credit                    |
| 16 to 24 hours in a 48 hour period   | \$240  | \$2400  | no credit                    |
| 24 to 48 hours in a 60 hour period   | \$300  | \$3000  | \$10 per day                 |
| More than 48 hours in a 72 hour period                                     | The greater of \$420 or 100% of the total monthly recurring charge | The greater of \$4000 or 100% of the total monthly recurring charge | \$10 per day                 |

**B.** Whenever an ILEC fails to repair an out-of-service condition for DS-1 or DS-3 service within twenty-four (24) clock hours of notification, it shall credit the pro rata cost of the circuit and trunks to the customer's account.

[17.11.22.15 NMAC - Rp, 17.11.22.15 NMAC, 2-1-06]

**17.11.22.16 DIRECTORY ASSISTANCE AND INTERCEPT:**

**A.** An ILEC shall list basic local exchange service customers (except those customers requesting otherwise) in the directory assistance database within twenty-four (24) hours of service connection, except during times of regular maintenance, in which case the listing shall occur within forty-eight (48) hours of service connection.

**B.** If an ILEC makes an error in the listed number or name of any customer, then until a new directory is published, the ILEC shall make, at no charge to the customer, whatever special arrangements are necessary and reasonable to ensure that calling parties are able to reach the customer whose listed number or name is in error.

C. If an ILEC makes an error in the number, name or address of any listing of any customer, the ILEC shall place the customer's correct name, address and telephone number in the files of the directory assistance and intercept operators within seventy-two (72) hours of confirmation of the error.

D. When a customer's telephone number is changed at the request of the customer after a directory is published, the LEC shall provide intercept service for all calls to the former number for the lesser of sixty (60) days or until a new directory is issued. If the change is made at the initiative of the LEC, the LEC shall provide intercept service for the former number at no charge to the customer for the greater of sixty (60) days or the remaining life of the current directory. The LEC shall provide the correct number to its information operator within twenty-four (24) hours of the number change (except during times of regular maintenance, in which the case the listing shall occur within forty-eight (48) hours of service connection) or send it to the carrier providing information operator service within twenty-four (24) hours if the local exchange carrier does not provide its own service. The LEC's intercept recording shall state how the caller can obtain the new number.

[17.11.22.16 NMAC - Rp, 17.11.22.16 NMAC, 2-1-06]

**17.11.22.17 NETWORK CALL COMPLETION REQUIREMENTS FOR DIRECT DIALED CALLS:**

A. An ILEC shall maintain sufficient wire center and interoffice channel capacity and any other necessary facilities to meet the following minimum requirements during any normal busy hour:

(1) dial tone within three (3) seconds for ninety-eight (98) percent of call attempts on the switched network;

(2) correct termination of ninety-eight (98) percent of properly dialed intraoffice or interoffice calls within an extended service area; and

(3) correct termination of ninety-eight (98) percent of properly dialed intraLATA calls when the call is routed entirely over the network of the ILEC.

B. Unless otherwise authorized by the commission, a carrier providing toll service shall maintain sufficient switching and network channel capacity and any other necessary facilities so that ninety-eight (98) percent of properly dialed intrastate toll calls are correctly terminated.

C. An ILEC shall terminate a properly dialed call in one of the following ways:

(1) the calling party shall receive an indication of ringing and a ringing signal shall be delivered to the station location of the called party; if the called party answers, a connection shall be established between the calling and called parties;

(2) if the called number is busy, the calling party shall receive a busy signal, unless the called party has subscribed to a voice messaging, call forwarding, or call waiting service;

(3) if the ILEC cannot establish a connection between the calling and called parties, the calling party shall receive an announcement or an appropriate overflow signal that is different than a called party busy signal; a call terminated in this way shall not be considered correctly terminated for purposes of calculating the percentage of correctly terminated calls required by subsections A and B of this section;

(4) if a call is made to a non-working code or inoperative customer number, it shall be directed to the ILEC's intercept service.

[17.11.22.17 NMAC - Rp, 17.11.22.17 NMAC, 2-1-06]

**17.11.22.18 NETWORK CALL COMPLETION REQUIREMENTS FOR OPERATOR ASSISTED**

**CALLS:** A carrier offering operator assistance to the public shall answer eighty-five (85) percent of directory, intercept, toll and local assistance calls within ten (10) seconds. The following are not answers:

A. an acknowledgement that the customer is waiting on the line;

B. a dropped call;

C. directing the call to a company representative or mechanized system incapable of providing assistance to the customer; or

D. directing the call to a system that will only take a message from the customer.

[17.11.22.18 NMAC - Rp, 17.11.22.18 NMAC, 2-1-06]

**17.11.22.19 QUALITY OF SERVICE STANDARDS FOR NON-DESIGNED SERVICES:**

A. **Installation of primary local exchange lines.** An ILEC shall complete at least ninety-six (96) percent of all requests for installation of primary local exchange lines within the time frames established 17.11.22.12 NMAC.

B. **Held orders for primary local exchange lines.** An ILECs annual held order rate for primary local exchange lines shall not exceed 0.035 percent. The annual held order rate shall be the average of the monthly

held order rates. The monthly held order rate shall be calculated as the number of an ILEC's held orders for primary local exchange lines as of the last day of the month, excluding orders for which waivers have been granted, expressed as a percentage of the total number of the ILEC's switched access lines in service at the end of that month.

**C. Trouble reports.**

(1) An ILEC's trouble report rate shall not exceed five (5) trouble reports per month per 100 access lines in service per wire center.

(2) An ILEC's repeat trouble report rate shall not exceed 18% of total monthly trouble reports, on a wire center basis.

**D. Out-of-service clearances.**

(1) An ILEC shall clear eighty-five (85) percent of out-of-service trouble reports in each month within twenty-four (24) hours, on a wire center basis.

(2) The monthly average repair interval in a wire center shall not exceed twenty (20) hours.

[17.11.22.19 NMAC - Rp, 17.11.22.19 NMAC, 2-1-06]

**17.11.22.20 TIMELY RESPONSE BY CUSTOMER SERVICE REPRESENTATIVES:**

**A. Standards.** An ILEC's business and repair offices shall answer calls within an average of thirty-five (35) seconds. If a carrier uses an automated response system, the system shall transfer calls to a customer service representative within an average of thirty-five (35) seconds of the customer's selection or within forty (40) seconds if the customer does not make a selection. An ILEC shall ensure that no more than one (1) percent of calls to its business offices reach a busy signal and that no more than one (1) percent of calls to its repair offices reach a busy signal.

**B. Reports.** An ILEC shall file an exception report within thirty (30) calendar days of the end of any month in which it failed to meet any of the standards set forth in Subsection A of this section. The report shall identify each offending business office and repair office, the percent of calls answered, the percent of calls reaching a busy signal, the reason for failure to meet the respective standard, the remedial action taken by the ILEC, and any known results of that remedial action.

[17.11.22.20 NMAC - Rp, 17.11.22.20 NMAC, 2-1-06]

**17.11.22.21 AGGREGATE CUSTOMER CREDITS:** This section applies only to non-designed services.

**A. Annual compliance reports.**

(1) By February 15 of each year, each ILEC shall submit to the commission a report detailing, on a statewide basis, its compliance in the preceding calendar year with the quality of service standards set forth in this rule. The report shall also list each wire center alphabetically and shall indicate for each wire center which of the standards set forth in subsections C and D of 17.11.22.19 NMAC the ILEC failed to meet and the months in which the ILEC failed to meet the standard.

(2) The report shall include the details of the calculations made pursuant to 17.11.22.22 NMAC to determine the credit obligations the ILEC has incurred for the preceding calendar year, including those that are the subject of a petition for waiver or variance.

**B. Payment of credits.**

(1) An ILEC shall issue a one-time credit on customer bills for an equal amount of the aggregate customer credits incurred in any given year to each customer active in the billing cycle in which the credits are issued.

(2) An ILEC shall issue aggregate customer credits in a billing cycle that begins by May 1 for all quality of service standards that are not the subject of a petition for waiver or variance or for which such a petition has been denied by January 31.

(3) An ILEC shall issue aggregate customer credits for all quality of service standards for which a petition for a waiver or variance has been denied after January 31 in a billing cycle that begins within ninety (90) days of the date the petition was denied.

(4) An ILEC need not issue aggregate customer credits for those quality of service standards for which it has been granted a waiver.

[17.11.22.21 NMAC - Rp, 17.11.22.21 NMAC, 2-1-06]

**17.11.22.22 CALCULATION OF AGGREGATE CUSTOMER CREDITS:** This section applies only to nondesigned services.

**A. Installation of service.** For any calendar year in which an ILEC failed to achieve, on a statewide basis, the ninety-six (96) percent installation standard for primary local exchange lines, the ILEC shall incur the following credit obligations:

(1) for each percentage point from .1 to 3.0 percentage points less than the benchmark: .06 percent of the ILEC's total intrastate revenues for the year;

(2) for each percentage point from 3.1 to 7.0 percentage points less than the benchmark: .10 percent of the ILEC's total intrastate revenues for the year;

(3) for each percentage point from 7.1 to 12.0 percentage points less than the benchmark: .13 percent of the ILEC's total intrastate revenues for the year; and

(4) for each percentage point over 12.0 percentage points less than the benchmark: .16 percent of the ILEC's total intrastate revenues for the year.

**B. Held orders up to 180 days.** For any calendar year in which an ILEC failed to achieve, on a statewide basis, the 0.035% held order standard, the ILEC shall incur the following credit obligations:

(1) for each .001 increment from .001 to .005 percentage points in excess of the benchmark: .06 percent of the ILEC's total intrastate revenues for the year;

(2) for each .001 increment from .006 to .01 percentage points in excess of the benchmark: .1 percent of ILEC's total intrastate revenues for the year;

(3) for each .001 increment from .011 to .015 percentage points in excess of the benchmark: .13 percent of the ILEC's total intrastate revenues for the year; and

(4) for each .001 percentage point increment over .015 percentage points in excess of the benchmark: .16 percent of ILEC's total intrastate revenues for the year.

**C. Held orders in excess of 180 days:** For each month during a calendar year in which an ILEC had, as of the last day of the month, one or more held orders pending for more than 180 days, an ILEC shall incur the following credit obligations:

(1) for each month with 1 to 5 such orders as of the last day of the month: .01 percent of an ILEC's total intrastate revenues for the year;

(2) for each month with 6 to 10 such orders as of the last day of the month: .015 percent of ILEC's total intrastate revenues for the year; and

(3) for each month with 11 or more such orders as of the last day of the month: .02 percent of ILEC's total intrastate revenues for the year.

**D. Trouble reports.** For any calendar year in which an ILEC failed to achieve, on a statewide basis, an average trouble report rate of 5.0 trouble reports per 100 access lines, the ILEC shall incur the following credit obligations:

(1) for an annual average trouble report rate from .1 to 2.0 reports per 100 access lines in excess of the benchmark, .06% of the ILEC's total intrastate revenues for the year;

(2) for an annual average trouble report rate from 2.1 to 4.0 reports per 100 access lines in excess of the benchmark, .1% of the ILEC's total intrastate revenues for the year;

(3) for an annual average trouble report rate from 4.1 to 6.0 reports per 100 access lines in excess of the benchmark, .13% of the ILEC's total intrastate revenues for the year; and

(4) for an annual average trouble report rate more than 6.0 reports per 100 access lines in excess of the benchmark, .16% of the ILEC's total intrastate revenues for the year.

**E. Out-of-service clearances.** For any calendar year in which an ILEC failed to achieve, on a statewide basis, an average out-of-service clearance rate of eighty-five (85) percent in twenty-four (24) hours, the ILEC shall incur the following credit obligations:

(1) for each percentage point from .1 to 3.0 percentage points less than the benchmark, .02% of the ILEC's total intrastate revenues for the year;

(2) for each percentage point from 3.1 to 7.0 percentage points less than the benchmark, .03% of the ILEC's total intrastate revenues for the year;

(3) for each percentage point from 7.1 to 12.0 percentage points less than the benchmark, .04% of the ILEC's total intrastate revenues for the year; and

(4) for each percentage point beyond 12.0 percentage points less than the benchmark, .05% of the ILEC's total intrastate revenues for the year.

**F. Repeat trouble reports.** For any calendar year in which an ILEC failed to achieve, on a statewide basis, an average repeat trouble report rate of eighteen (18) percent, the ILEC shall incur the following credit obligations:

(1) for a repeat trouble report rate from 0.1 to 5.0 percentage points in excess of the benchmark, .06%

of total intrastate revenues for the year;

(2) for a repeat trouble report rate from 5.1 to 10.0 percentage points in excess of the benchmark, .1% of total intrastate revenues for the year;

(3) for a repeat trouble report rate from 10.1 to 15.0 percentage points in excess of the benchmark, .13% of total intrastate revenues for the year; and

(4) for a repeat trouble report rate more than 15.0 percentage points in excess of the benchmark, .16% of total intrastate revenues for the year.

**G. Wire center-specific standards.** In addition to the credit obligations based on statewide performance, an ILEC shall incur a credit obligation of \$3.00 per access line in service at a given wire center for each wire center-specific standard set forth in subsections C and D of 17.11.22.19 NMAC the ILEC failed to achieve at that wire center for two consecutive months or any three months in a calendar year.  
[17.11.22.22 NMAC - Rp, 17.11.22.22 NMAC, 2-1-06]

#### **17.11.22.23 INDIVIDUAL CUSTOMER CREDITS:**

**A. Out-of-service clearances.** A LEC shall automatically make appropriate adjustments to a customer's bill whenever service from the LEC is interrupted and remains out of order for more than eight (8) hours during a continuous twenty-four (24) hour period after the customer reports it or the LEC finds it, whichever occurs first.

(1) The LEC shall provide a credit on the monthly bill for LEC services that is proportional to the duration of the service interruption. Each occurrence of a loss of service for eight (8) hours during a twenty-four (24)-hour time period shall count as one day and every month shall be considered to have thirty (30) days.

(2) The LEC shall not be required to provide an adjustment for loss of service due to:

(a) the negligence or willful act of the customer;

(b) a malfunction of facilities other than those under control of the LEC;

(c) force majeure; or

(d) the inability of the LEC to gain access to the customer's premises when necessary.

**B. Held orders.** For each customer whose order is held, an ILEC shall:

(1) provide a credit of \$45 for each primary residential line, and a credit of \$135 for each primary business line it fails to install within the time frames set forth in 17.11.22.12 NMAC;

(2) pay the sum of \$300 and three (3) times the installation charge for each primary residential or business line not installed within seven (7) days of the time frames set forth in 17.11.22.12 NMAC;

(3) waive the service charge for the first month of service once service is provided; and,

(4) for each customer whose premises is located where wireless phone service or equivalent service is not available, provide a credit of two (2) times the basic local exchange service rate for every month or partial month the customer's order is held.

[17.11.22.23 NMAC - Rp, 17.11.22.23 NMAC, 2-1-06]

**17.11.22.24 RATEMAKING TREATMENT OF PENALTIES AND CREDITS:** Regardless of the form of regulation, an ILEC shall not recover from customers through its rates the costs it incurs for penalties imposed pursuant to NMSA 1978 Section 63-7-23 or credits provided to customers pursuant to this rule.

[17.11.22.24 NMAC - Rp, 17.11.22.24 NMAC, 2-1-06]

#### **17.11.22.25 EXEMPTION OR VARIANCE:**

**A. General requirements.**

(1) Any carrier may petition for an exemption or variance from any of the requirements of this rule.

(2) Such petition may include a motion that the commission stay the affected portion of this rule for the transaction specified in the motion.

(3) Petitions for an exemption or a variance and motions for a stay must be supported by an affidavit signed by an officer of the carrier or other person with authority to bind the carrier.

(4) The commission may, at its discretion, require an informal conference or formal evidentiary hearing prior to making its determination.

**B. Waiver of held order standard.**

(1) An ILEC may petition for a waiver of the held order standard in 17.11.22.19 NMAC for circumstances beyond the reasonable control of the ILEC. The petition shall be filed with the commission within thirty (30) calendar days of the installation dates established in 17.11.22.12 NMAC and shall be accompanied by an

affidavit executed by a person employed by the ILEC who is knowledgeable concerning the facts surrounding the waiver request. At the same time, the ILEC shall serve a copy of the waiver petition on the affected customers.

(2) The petition shall include:

(a) the names and addresses of all known customers who will be affected by the waiver request and an estimate of the number of unknown customers who might be affected;

(b) a detailed explanation of the relief being sought;

(c) the date when the service orders are expected to be filled; and

(d) a detailed explanation of the circumstances giving rise to the waiver request.

(3) The telecommunications bureau of the commission shall approve or disapprove the petition for waiver of the held order standard within thirty (30) calendar days of its submittal. The order shall not be counted as a held order and the ILEC shall not be required to pay credits while the petition is pending before the telecommunications bureau.

(4) Neither a waiver or a waiver petition shall relieve the ILEC of its obligations to provide alternative service to the individual customer unless the customer failed to provide the necessary facilities to enable the ILEC to complete the order or otherwise caused the delay.

(5) Where a waiver request is granted, the ILEC need not count any order subject to the waiver as a held order for purposes of this rule.

**C. All other exceptions.** A petition for an exemption or variance from any other requirement of this rule shall:

(1) identify the section of this rule for which the exemption or variance is requested;

(2) describe the situation which necessitates the exemption or variance;

(3) describe the effect of complying with this rule on the carrier and its customers, and on its competitive affiliates and their customers, if the exemption or variance is not granted;

(4) state how the exemption or variance will achieve the purposes of this rule and the New Mexico Telecommunications Act;

(5) state why the proposed alternative is in the public interest and is better than the requirement in the rule; and

(6) state why the exemption or variance would have no anticompetitive effect.

[17.11.22.25 NMAC - Rp, 17.11.22.25 NMAC, 2-1-06]

#### **HISTORY OF 17.11.22 NMAC:**

##### **Pre-NMAC History:**

None.

##### **History of Repealed Material:**

17.11.22 NMAC, Quality of Service Standards (filed 12-14-00) repealed 2-1-06.

##### **NMAC History:**

17.11.22 NMAC, Quality of Service Standards (filed 12-14-00) was replaced by 17.11.22 NMAC, Quality of Service, effective 2-1-06.