

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 11 TELECOMMUNICATIONS**  
**PART 23 RETAIL SERVICE PRICING STANDARDS FOR MID-SIZE CARRIERS**

**17.11.23.1 ISSUING AGENCY:** The New Mexico Public Regulation Commission.  
[17.11.23.1 NMAC - N, 4-1-2006]

**17.11.23.2 SCOPE:** This rule applies to all mid-size carriers.  
[17.11.23.2 NMAC - N, 4-1-2006]

**17.11.23.3 STATUTORY AUTHORITY:** NMSA 1978 Sections 63-9A-5.1 and 63-9A-5.2.  
[17.11.23.3 NMAC - N, 4-1-2006]

**17.11.23.4 DURATION:** Permanent.  
[17.11.23.4 NMAC - N, 4-1-2006]

**17.11.23.5 EFFECTIVE DATE:** April 1, 2006, unless a later date is cited at the end of a section.  
[17.11.23.5 NMAC - N, 4-1-2006]

**17.11.23.6 OBJECTIVE:** The purpose of this rule is to establish retail service pricing standards for mid-size carriers.  
[17.11.23.6 NMAC - N, 4-1-2006]

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

- A. basic services means retail telecommunications services that provide residence or business customers with an individual primary line providing voice grade access to the public switched network;
- B. basket means a collection of retail telecommunications services grouped together in order to calculate permissible changes in the price ceilings for the services;
- C. bundle means a combination of regulated services and unregulated services in a single retail product offering; the unregulated services may be obtained by a mid-size carrier from another entity;
- D. commission notice means a letter of notice filed by a mid-size carrier at the New Mexico public regulation commission;
- E. cost means the cost incurred by a mid-size carrier to provide a service in New Mexico;
- F. customer notice means notice of changes in service prices, terms, or conditions provided by a mid-size carrier to retail customers via bill message or, at the option of the mid-size carrier, via bill insert, direct mail, or publication in newspapers;
- G. effective price means the current tariffed price for a retail telecommunications service;
- H. initial price means a mid-size carrier's rates on file at the commission on the first date that the carrier is regulated under this rule. The first established price of a new service introduced after the effective date of this rule shall be considered its initial price;
- I. mid-size carrier means any telecommunications company with more than fifty thousand but less than three hundred seventy-five thousand access lines in New Mexico;
- J. non-basic services means retail telecommunications services that are not a basic service, a switched access service or a wholesale service governed by an interconnection agreement;
- K. package means the combination of two or more regulated services in a single retail product offering by a mid-size carrier;
- L. price ceiling means the maximum price at which a basic or non-basic service may be offered;
- M. price floor means the lowest price at which a basic or non-basic service may be offered;
- N. promotion means the offering of a new or existing telecommunications product or service at a new or reduced price or on modified terms for a temporary period;
- O. service area refers to the territory served by a mid-size carrier within a single wire center.

[17.11.23.7 NMAC - N, 4-1-2006]

**17.11.23.8 PRICING FLEXIBILITY:** In recognition of factors that distinguish mid-size carriers from other carriers, this rule establishes pricing flexibility for mid-size carriers and an objective mechanism by which mid-size carriers may adjust prices.

A. Basic Services.

(1) Effective Price. The effective price of a basic service may be any price that is less than or equal to the price ceiling for the service and greater than or equal to the price floor for the service.

(2) Price Ceilings.

(a) The initial price ceiling for each basic service shall be its initial price.

(b) Each price ceiling shall be adjusted once annually by the percentage change in the average national price for residential and business single lines reported in the most recent statistics of communications common carriers published by the federal communications commission.

(i) For residential and business customers, price indices shall be calculated based on the tables entitled "average residential rates for local service in urban areas" and "average local rates for businesses with a single line in urban areas," respectively.

(ii) For residential and business customers, the applicable price indices shall be calculated based on the rows entitled "total monthly charge" and "total connection charge."

(c) If the index declines in a year, the price ceiling shall not be reduced; however, the price ceiling will not be increased subsequently until the index surpasses its value in the year prior to the decline.

(d) A mid-size carrier may change the price ceiling of a basic service by filing tariff sheets reflecting the change and providing notice as required in 17.11.23.9 NMAC.

(3) Price Floors. The price floor for a basic service shall be the average cost of providing the service in New Mexico.

(4) Rebalancing. The commission may revise the price ceiling for a basic service as part of a revenue-neutral rate rebalancing, as provided by NMSA 1978 Section 63-9A-5.1(E). Subsequent changes to a revised price ceiling shall be based on subsequent changes in the appropriate index.

B. Non-Basic Services.

(1) Effective Price. The effective price of a non-basic service may be any price that is less than or equal to the price floor for the service.

(2) Price Ceilings.

(a) The initial price ceiling for each non-basic service shall be its initial price.

(b) A mid-size carrier may change the price ceiling of a non-basic service by providing notice.

(c) An increase in the price ceiling for a non-basic service other than a custom calling service will be presumed to be reasonable and will be permitted to become effective by the commission if the increase is not greater than five percent in any twelve-month period.

(d) For purposes of calculating changes to price ceilings for custom calling features other than public interest services, such features shall be considered as a basket of services. An increase in the price ceiling for a custom calling feature will be presumed to be reasonable and will be permitted to become effective by the commission if the increase in the sum of the price ceilings of the features in the basket, weighted by the number of subscribers to each custom calling feature, is not greater than twenty percent and the increase for any individual feature is not greater than fifty percent in any twelve-month period beginning February 1 of each year.

(e) If the price ceiling of a non-basic service is proposed to be increased by an amount that is greater than twenty percent in any twelve-month period or if the price ceiling for any individual custom calling feature is proposed to be increased more than fifty percent in any twelve-month period, the commission may take such action as it deems appropriate, including denial or suspension and investigation of the proposed changes in price ceilings.

(3) Price Floors. The price floor for a non-basic service shall be the average cost of providing the service in New Mexico.

(4) Public Interest Services. Notwithstanding the provisions of this rule, a mid-size carrier shall not withdraw the following products and services without express approval of the commission: 911, call trace, caller ID blocking, non-published and non-listed directory services, and discounted services, such as the low income telephone assistance program (LITAP) and lifeline, provided to qualified persons. A mid-size carrier may not increase the price ceiling for 911 services by more than five percent in any twelve-month period without express approval of the commission. A mid-size carrier may not increase the price ceiling for other public interest services by more than ten percent in any twelve-month period without express approval of the commission.

C. Packages.

(1) Authority. A mid-size carrier may offer a combination of basic and non-basic services in a single package as authorized by NMSA 1978 Section 63-9A-5.1(G).

(2) Effective Price. The effective price of a package may be any price that is less than or equal to the price ceiling of the package and greater than or equal to the price floor of the package.

(3) Price Ceilings. The price ceiling for a package shall be less than or equal to the sum of the price ceilings of the components of the package. If the package permits customers to choose elements of the package, the highest such price ceiling shall be calculated assuming the customer chooses the most expensive compatible options.

(4) Price Floors. The price floor for a package shall be the sum of the price floors of the components of the package.

D. Bundles.

(1) Effective Price. The effective price of a bundle may be any price that is less than or equal to the price ceiling of the bundle and greater than or equal to the price floor of the bundle.

(2) Price Ceiling. The initial price ceiling for an existing bundle is the initial price of the bundle. The initial price ceiling for a new bundle is the initial maximum price which shall be less than or equal to the sum of the price ceilings of the regulated services plus the sum of the stand-alone prices of the unregulated services.

(3) Price Floor. The price floor of a bundle is the sum of the price floors of the regulated services plus the cost to the mid-size carrier of acquiring the unregulated services.

E. Prices within Service Areas.

(1) One floor and one ceiling per service. A single price ceiling and a single price floor shall apply to each basic and non-basic service offered by a mid-size carrier in the state.

(2) Prices within and between service areas. A mid-size carrier may charge different prices for basic and non-basic services to customers in different service areas. A mid-size carrier shall charge the same price for a basic or non-basic service to all customers within a service area unless the mid-size carrier demonstrates to the commission that market conditions vary within a service area.

F. Introducing or Withdrawing Non-basic Services, Packages and Bundles.

(1) Commission notice of introductions. Subject to commission suspension under 17.11.23.10 NMAC, a mid-size carrier may offer a new non-basic service, bundle or package by filing a tariff and commission notice no less than ten days prior to the effective date of the tariff.

(2) Commission notice of withdrawals. Subject to commission suspension under 17.11.23.10 NMAC, a mid-size carrier may withdraw any non-basic service, package or bundle from its tariff, except public interest services, by filing a revised tariff and commission notice no less than ten days prior to the effective date of the tariff.

(3) Consumer notice of withdrawals. A mid-size carrier shall notify affected customers of a service to be withdrawn at least ten days before the service is withdrawn.

G. Promotions. A mid-size carrier may offer promotions such as special incentives, discounts, or temporary rate waivers by filing a commission notice not less than three days prior to the effective date of the promotion.

H. Individual Contracts. A mid-size carrier may offer basic and non-basic services on an individual contract basis pursuant to NMSA 1978 Section 63-9A-9 by providing notice to the commission of the individual contract. If the commission does not act within five days of receiving the notice, the individual contract shall be deemed approved by the commission.

[17.11.23.8 NMAC - N, 4-1-2006]

### **17.11.23.9 TARIFFS, PRICE LISTS AND NOTICE.**

A. Tariffs. A mid-size carrier shall maintain a tariff on file with the commission that contains the price ceiling and effective price by service area for each basic service, non-basic service, package and bundle offered by the mid-size carrier.

B. Changes to Terms and Conditions. A mid-size carrier may propose non-price related changes to terms and conditions in its tariffs by filing commission notice and tariff sheets reflecting the modified terms and conditions. Subject to commission suspension under 17.11.23.10 NMAC, the modified terms and conditions of such non-price related changes shall become effective ten days after a mid-size carrier files such commission notice and tariff sheets.

C. Notice of Price Ceiling Changes and Effective Price Changes.

(1) Notice. Subject to commission suspension under 17.11.23.10 NMAC, a mid-size carrier may change the effective price or the price ceiling of a basic service, non-basic service, package or bundle by providing notice as provided in this subsection.

(2) Notice of changes in price ceilings. No less than ten days prior to the effective date of an increase in a price ceiling, the mid-size carrier shall provide notice to the commission and to the New Mexico Attorney General and shall cause notice of the increase to be published in a newspaper with statewide circulation. For

decreases to price ceilings, commission notice shall be made no less than one day prior to the effective date of the new price ceiling. No customer notice of decreases in price ceilings is required.

(3) Notice of changes in effective prices. Commission notice of increases in effective price shall be made not less than ten days prior to the effective date of the new price. Commission notice of decreases in effective price shall be made no less than one day prior to the effective date of the new price. Consumer notice of effective price increases shall be made not less than ten days or more than seventy-five days prior to the effective date of the new price. No consumer notice of decreases in effective prices is required.

(4) Website posting of changes in effective price. Each change in effective price shall be reflected on a mid-size carrier's website on or before the date the change becomes effective.

(5) Affidavit Required. Any tariffed change in the effective price or the price ceiling of a basic service, non-basic service, package or bundle must be accompanied by an affidavit, signed by a person with personal knowledge, stating that the effective price is above or equal to the price floor for the service.

(6) Cost Studies. Upon request of the commission or commission staff, a mid-size carrier shall produce a cost study demonstrating how the mid-size carrier calculated the cost of a service.  
[17.11.23.9 NMAC - N, 4-1-2006]

**17.11.23.10 SUSPENSION:** Pursuant to NMSA 1978 Section 63-9A-5.1(G), the commission may suspend a tariff introducing a new service, withdrawing a non-basic service, or changing the effective price or the price ceiling of a basic service or a non-basic service under circumstances limited to ensuring compliance with applicable rules, cost considerations, or a finding that the tariff filing is not consistent with the public interest.  
[17.11.23.10 NMAC - N, 4-1-2006]

**17.11.23.11 REVIEW AND REPORT TO LEGISLATURE:** Two years after the effective date of this rule, the commission and any mid-size carrier shall independently review the provisions of this rule and, subsequently, shall report their findings to the legislature. All or part of such findings may be reported to the legislature either jointly or separately.  
[17.11.23.11 NMAC - N, 4-1-2006]

**17.11.23.12 WAIVERS:** Pursuant to NMSA 1978 Section 63-9A-5.1(H), a mid-size carrier may petition the commission for a waiver of any provision of this rule for good cause shown. Without limitation, extraordinary changes in a carrier's costs caused by administrative, legislative, or judicial action beyond the control of the carrier shall constitute good cause.  
[17.11.23.12 NMAC - N, 4-1-2006]

**17.11.23.13 ADJUSTMENTS FOR EXOGENOUS COST CHANGES:** A mid-size carrier, staff, or other interested party may petition the commission to incorporate exogenous cost changes resulting from extraordinary changes in a mid-size carrier's cost caused by administrative, state or federal legislative changes, or judicial action beyond the control of the mid-size carrier. Such adjustments make take the form of a change in rates, or surcharges or credits on consumers' bills. The commission shall issue a decision on a petition for an exogenous cost adjustment no later than one-hundred and twenty days after the petition is submitted.  
[17.11.23.13 NMAC - N, 4-1-2006]

**HISTORY OF 17.11.23 NMAC:** [RESERVED]