

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 11 TELECOMMUNICATIONS**  
**PART 25 CONSUMER PROTECTION STANDARDS APPLICABLE TO MID-SIZE CARRIERS**

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

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

**17.11.25.3 STATUTORY AUTHORITY:** NMSA 1978 Section 63-9A-5.1(F)(1).  
[17.11.25.3 NMAC - N, 4-1-2006]

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

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

**17.11.25.6 OBJECTIVE:** The purpose of this rule is to establish consumer protection standards applicable to mid-size carriers.  
[17.11.25.6 NMAC - N, 4-1-2006]

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

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

B. 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, but does not include discretionary services;

C. consumer means any person that has applied for or is currently receiving telecommunications services, either residential or business;

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

E. LITAP means the low income telephone assistance program;

F. mid-size carrier means a telecommunications company with more than fifty thousand but less than three hundred seventy-five thousand access lines in the state;

G. primary line means the first exchange access line installed by a mid-size carrier to serve a consumer at the consumer's premise, as distinct from additional lines that may be ordered at the same time or subsequently;

H. telecommunications company means a person that provides public telecommunications service;

I. 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.

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

**17.11.25.8 DISCONNECTION OF BASIC LOCAL EXCHANGE SERVICE AND ALLOCATION OF PARTIAL PAYMENTS:**

A. Failure to pay. A mid-size carrier shall not disconnect a consumer's basic local exchange service for failure to pay charges for toll or discretionary services.

B. Toll blocking offer. A mid-size carrier shall offer toll blocking upon a consumer's request.

C. Involuntary toll blocking. A mid-size carrier may impose involuntary toll blocking on a consumer's primary line for failure to pay charges for toll service. However, the toll blocking must be provided without charge and the mid-size carrier must remove the toll blocking when the bill is paid.

D. Partial payments. A consumer's partial payments for current bills or past due amounts shall be credited first to basic local exchange service unless the consumer instructs the mid-size carrier in writing to allocate the payment in a different manner.  
[17.11.25.8 NMAC - N, 4-1-2006]

**17.11.25.9 ACCESS TO AND AUDIT OF DATA:** Unless otherwise authorized by the commission, a mid-size carrier shall make all records required by this rule available to the commission or its authorized representatives at any time upon reasonable notice. A mid-size carrier shall make consumer proprietary network information available to the commission to the extent allowed by law. A mid-size carrier shall retain all records required by this rule for at least two years. The timeliness, accuracy, and courteousness of mid-size carriers' consumer service and repair bureau representatives shall be subject to periodic audit by the commission.  
[17.11.25.9 NMAC - N, 4-1-2006]

**17.11.25.10 CONSUMER COMPLAINT TRACKING:**

A. Records maintained. A mid-size carrier shall maintain a record of all oral and written complaints, including informally resolved billing disputes, made by or on behalf of consumers which shall contain:

- (1) the name and address of the consumer or complainant;
- (2) the date the complaint is lodged;
- (3) the class of consumer (residence or business);
- (4) the category (i.e., nature) of the complaint;
- (5) the resolution of the complaint; and
- (6) the date the complaint is resolved.

B. Consumer relations. A mid-size carrier shall not retaliate against a consumer for any complaint made by the consumer to the commission or any other person.

C. Commission report. Upon request of the commission or staff, a mid-size carrier shall compile and submit to the commission reports that state the total number of complaints received during a specified period not to exceed two years and the number of such complaints categorized by the:

- (1) category of the complaint;
- (2) region within the state (e.g., by wire center, exchange, county); and
- (3) class of consumer (residential or business).

D. Resolving complaints. A mid-size carrier shall cooperate with the commission and the commission's consumer relations division and staff in resolving complaints.

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

**17.11.25.11 ACCESS TO PRODUCT AND PRICING INFORMATION; ADHERENCE TO FAIR MARKETING PRACTICES:**

A. Product and pricing information. A mid-size carrier shall make product and pricing information available to consumers upon request. When a consumer initially subscribes to basic local exchange service, a mid-size carrier shall provide information about LITAP, including a toll-free number the consumer can call to obtain further information about LITAP and the requirements for eligibility.

B. Fair marketing. A mid-size carrier shall adhere to all applicable state and federal laws and regulations governing fair marketing of telecommunications services.

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

**17.11.25.12 TARIFFS AND BOUNDARY MAPS:**

A. Tariffs. Upon certification by the commission to provide services in the state, a mid-size carrier shall file tariffs which specifically set forth:

- (1) rates, charges, terms, and conditions for all intrastate services;
- (2) conditions and circumstances under which the mid-size carrier, or entities under contract to the mid-size carrier, will make special construction available to applicants within the exchange area;
- (3) minimum standards for discontinuance of residential basic local exchange service consistent with 17.11.25.16 NMAC; and
- (4) charges for service connections, extensions and line mileage.

B. Public access to tariffs and price lists. A mid-size carrier shall post tariffs and price lists on its website and shall, upon request, make copies of tariffs and price lists available for review by the public.

C. Boundary maps. Upon certification by the commission, each mid-size carrier shall file an exchange area boundary map for each of its exchanges in New Mexico. Each map shall clearly show the boundary lines of the exchange area the mid-size carrier holds itself out as serving. Where a portion of the boundary line is not located on section lines, waterways, railroads, etc, the exchange boundary lines shall be located by appropriate measurement to an identifiable location. Maps generally shall contain the detail shown on county highway maps. Each map shall be to a scale and in sufficient detail to permit a person to locate the exchange service area boundaries.

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

**17.11.25.13 BILLS:** A mid-size carrier shall provide easily readable, readily understandable bills.

A. Itemization. A mid-size carrier's bills shall itemize services, usage, and charges, including quantities of units and per-unit charges.

B. Nonrecurring and recurring charges. A mid-size carrier's bills shall separately identify nonrecurring and recurring charges.

C. Toll-free access to mid-size carrier. A mid-size carrier's bills shall include the name and toll-free number of the mid-size carrier.

D. Right to dispute statement. A mid-size carrier's bills shall include a statement, in English and Spanish, advising consumers that they have a right to dispute the bill.

E. Toll-free access to commission. A mid-size carrier's bills shall include the toll-free number of the consumer relations division of the commission.

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

**17.11.25.14 INFORMATION REQUIRED SEMI-ANNUALLY:**

A. Information provided in English and Spanish. A mid-size carrier shall semi-annually provide information to consumers in English and Spanish. A mid-size carrier need not provide all of the information at the same time and may choose to provide it in a prominent place on a consumer's bill or in a bill insert. The following information is required:

(1) a statement that basic local exchange service will not be discontinued to any residence where a seriously ill or chronically ill person resides if the person responsible for the telephone service charges does not have the financial resources to pay the charges and if a licensed physician, physician's assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner certifies that discontinuance of service might endanger that person's health or life and the certificate is delivered to a manager or officer of the mid-size carrier at least two days prior to the due date of a bill for telephone service;

(2) a statement, using commonly understood descriptions and examples, that basic local exchange service will not be discontinued for failure to pay charges for toll or discretionary services;

(3) notification that service and rate information is available in telephone directories, on the mid-size carrier's web site, by calling a toll-free telephone number, or in other written materials such as brochures which the mid-size carrier shall provide upon request; and

(4) a brief description of LITAP, a toll-free number the consumer can call to obtain further information about LITAP, and the name and telephone number of the human services department (HSD) employee designated to determine eligibility for LITAP.

B. Information regarding consumer calling patterns. A mid-size carrier shall semi-annually notify consumers that they have the right to request that the mid-size carrier not disclose to any person, other than to employees of the mid-size carrier who have a need for the information in the course of providing telecommunications services, information about the consumer, including the consumer's calling patterns.

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

**17.11.25.15 BILLING DISPUTES, OVERBILLINGS AND UNDERBILLINGS:**

A. Billing disputes. In the event of a dispute between a consumer and a mid-size carrier concerning a bill for intrastate telecommunications services, the mid-size carrier may require the consumer to pay the undisputed portion of the bill to avoid discontinuance of service for non-payment. The mid-size carrier shall make an investigation appropriate to the case, and report the results to the consumer. In the event the dispute is not reconciled, the mid-size carrier shall advise the consumer that the consumer may file a complaint with the commission for disposition of the matter.

B. Overbilling and underbilling. Whenever the billing for service has not been determined accurately because of a mid-size carrier's omission or negligence, the mid-size carrier shall offer and enter into reasonable payment arrangements in accordance with the following criteria:

(1) When a mid-size carrier has overbilled a consumer for service and the consumer has paid the overbilled amount, the mid-size carrier shall credit the total overbilled amount within a reasonable time, but in no event later than the second bill after the mid-size carrier becomes aware of the error.

(2) Whenever a mid-size carrier has underbilled a consumer for service, the mid-size carrier may add the underbilled amount to the consumer's next regular bill, unless the amount exceeds the consumer's average bill for the preceding six months, in which case the consumer may elect to make payments, without interest, over a time period equal to the period over which the errors were accumulated.

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

**17.11.25.16 DISCONTINUANCE OR INTERRUPTION OF SERVICE:**

A. Discontinuance without prior notice. A mid-size carrier may discontinue basic local exchange service to a consumer without prior notice in the event of:

(1) a condition determined by the mid-size carrier to be hazardous;

(2) a consumer's use of equipment in such manner as to adversely affect the mid-size carrier's equipment or service to others;

(3) a consumer's tampering with, damaging, or deliberately destroying equipment furnished and owned by the mid-size carrier; or

(4) unauthorized use of service provided by the mid-size carrier.

B. Discontinuance with prior notice. Pursuant to 17.11.25.17 and 17.11.25.18 NMAC, a mid-size carrier may discontinue basic local exchange service to a consumer with prior notice:

(1) for nonpayment of a delinquent account; or

(2) for failure to post a security deposit or guarantee.

C. Temporary interruption without notice. A mid-size carrier may temporarily and without notice interrupt service for an operational emergency, necessary and unavoidable network maintenance, or reasons related to the public safety and welfare.

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

**17.11.25.17 PROHIBITIONS ON DISCONTINUANCE OF SERVICE:** A mid-size carrier shall not discontinue basic local exchange service for the reasons listed in this section.

A. Persons who are ill. A mid-size carrier shall not discontinue basic local exchange service to any residence where a seriously ill or chronically ill person resides, if the person responsible for the telecommunications service charges does not have the financial resources to pay the charges and a licensed physician, physician assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner certifies that discontinuance of service might endanger that person's health and the certificate is delivered to a manager or officer of the mid-size carrier at least two days prior to the date scheduled for discontinuance of service.

B. Nonpayment. A mid-size carrier shall not discontinue basic local exchange service for nonpayment of:

(1) the disputed portion of a bill;

(2) amounts billed for discretionary services.

C. Previous occupant. A mid-size carrier shall not discontinue basic local exchange service for a delinquency in payment for service to a previous occupant of the same premises unless the previous occupant continues to reside at the premises or the new customer is legally liable for the debt of the previous occupant.

D. Estimated bills. A mid-size carrier shall not discontinue basic local exchange service for failure of a consumer to pay an estimated bill rendered in violation of applicable commission rules.

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

**17.11.25.18 REQUIREMENTS PRIOR TO DISCONTINUANCE OF SERVICE:**

A. Written notice required. At least fifteen days before a mid-size carrier discontinues service to a consumer, the mid-size carrier shall hand-deliver or mail written notice to the consumer of its intent to discontinue service. The notice shall be in English and Spanish, and shall be in simple language. The notice shall be hand-delivered or sent by U.S. Mail, postage prepaid, to the last address for the consumer known to the mid-size carrier.

B. Contents of written notice. A notice of discontinuance shall contain:

(1) the name, title, address, telephone number, and working hours of mid-size carrier personnel responsible for administering the procedures in this section;

(2) the amount owed and the specific date service shall be discontinued unless the consumer pays the amount due or makes other arrangements with the mid-size carrier concerning payment of the charges. Upon request, the mid-size carrier shall provide information to the consumer concerning the outstanding charges, including the dates of the service interval over which the outstanding charges were incurred and the date and amount of the last payment;

(3) a statement that if the consumer pays the portion of the bill which the consumer does not dispute, the mid-size carrier shall review the portion of the bill which the consumer does dispute;

(4) a statement that a consumer may file a complaint with the commission if the consumer disagrees with the mid-size carrier's determination concerning discontinuance of service;

(5) statement that basic local exchange service shall not be discontinued to a residence where a seriously ill or chronically ill person resides if the person responsible for the telecommunications service charges does not have the financial resources to pay the charges and a licensed physician, physician assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner certifies that discontinuance of service might endanger that person's health and the certificate is delivered to a manager or officer of the mid-size carrier at least two days prior to the date scheduled for discontinuance of service; and a statement that if service has been discontinued a mid-size carrier shall re-establish service within twelve hours of receipt of the certificate;

(6) a form for certifying that a consumer is eligible to continue service pursuant to NMSA 1978 Section 63-9A-8.3 and a form for certifying that a consumer does not have the financial resources to pay the charges;

(7) a statement in capital letters of the cost of reconnection; and

(8) the following statement in capital letters, "If you have difficulty paying this bill, and feel you may qualify for assistance in paying your telecommunications bills, contact [name and telephone number of HSD employee] to find out if you are eligible for the low income telephone assistance program (LITAP)."

C. Payment plans.

(1) A mid-size carrier shall attempt to arrange a plan for the payment of past due mid-size carrier charges when a residential consumer who has not been chronically delinquent indicates an inability to pay the charges. The mid-size carrier shall not discontinue service to the residential consumer while a payment plan is being negotiated. The mid-size carrier shall also maintain a list of organizations in the area that may provide assistance to consumers in paying telecommunications bills and shall make application forms for LITAP available upon request.

(2) Each mid-size carrier shall provide a procedure for reviewing residential consumer allegations that a proposed payment plan is unreasonable, that a mid-size carrier charge is not due and owing, or that it has not violated an existing payment plan. A mid-size carrier shall not discontinue service until the review is completed. [17.11.25.18 NMAC - N, 4-1-2006]

**17.11.25.19 RESTORATION OF SERVICE:**

A. Restoration after payment of charges. A mid-size carrier shall promptly restore service within two business days after payment of all past-due charges, including in part any required deposit and a charge for restoration of service, if any.

B. Restoration for persons who are ill. A mid-size carrier shall restore service to a residential consumer within twelve hours of receipt of a medical certificate and a form certifying that the consumer does not have the financial resources to pay the charges.

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

**17.11.25.20 COMPLAINTS AND APPEALS:**

A. Responding to complaints from consumers. A mid-size carrier shall fully and promptly investigate and respond to all oral and written complaints made directly to the mid-size carrier by applicants or consumers. The mid-size carrier shall make a good faith attempt to resolve the complaint and shall notify the consumer promptly of its proposed disposition of the complaint. Upon request, the mid-size carrier shall send written confirmation of its proposed disposition of the complaint to the consumer.

B. Escalation of complaints. If a mid-size carrier's consumer representative cannot resolve a complaint to a consumer's satisfaction, the consumer representative shall offer to refer the consumer to a supervisor for further consideration. If the consumer still expresses dissatisfaction after attempting to resolve the matter with the supervisor, the mid-size carrier shall provide the complainant with the name, address and current local or toll-free telephone number of the consumer relations division of the commission.

C. Responding to consumer complaints via the commission. Upon receipt of an oral or written complaint from the commission on behalf of a consumer or applicant, a mid-size carrier shall make a suitable investigation. A mid-size carrier shall provide an initial oral or written response to the commission within ten business days after the mid-size carrier receives the complaint. Upon resolution of the complaint, a mid-size carrier shall provide a written response to the commission detailing the mid-size carrier's disposition of the complaint.  
[17.11.25.20 NMAC - N, 4-1-2006]

**17.11.25.21 WAIVERS:** Pursuant to NMSA 1978 Section 63-9A-5.1(H), a mid-size carrier may petition the commission for a waiver of a rule for good cause shown.  
[17.11.25.21 NMAC - N, 4-1-2006]

**17.11.25.22 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.  
[17.11.25.22 NMAC - N, 4-1-2006]

**17.11.25.23 TARIFFS:** A mid-size carrier may propose changes to terms and conditions in its tariffs related to this rule by filing with the commission a notice and tariff sheets reflecting the modified terms and conditions. The modified terms and conditions shall become effective ten days after a mid-size carrier files such commission notice and tariff sheets unless the commission suspends the mid-size carrier's proposed tariffs.  
[17.11.25.23 NMAC - N, 4-1-2006]

**17.11.25.24 INITIAL TROUBLE ISOLATION:** If a consumer reports trouble on a line, a mid-size carrier shall, without charge to the consumer and by use of whatever means necessary, determine whether the trouble is on the mid-size carrier or consumer side of the network interface.  
[17.11.25.24 NMAC - N, 4-1-2006]

**HISTORY OF 17.11.25 NMAC:** [RESERVED]