

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE PETITION OF)
CENTURYLINK QC TO IMPLEMENT)
SENATE BILL 53 AND TO ADOPT)
EMERGENCY RULES)**

Docket No. 17-00186-UT

**ORDER ADOPTING QUALITY OF SERVICE AND CONSUMER PROTECTION
RULES FOR LARGE INCUMBENT LOCAL EXCHANGE CARRIERS**

This matter comes before the New Mexico Public Regulation Commission (the “Commission”) upon the Commission’s own motion and in consideration of the written comments filed in this docket and the comments made at the public comment hearing in this matter.

Whereupon, being duly informed,

THE COMMISSION FINDS:

1. In 2017, the New Mexico Legislature passed Senate Bill 53, amending the New Mexico Telecommunications Act (the “Act,” also referred to as the “amended Act”), NMSA 1978, Sections 63-9A-1 *et seq.* (2017), which amendments became effective on June 16, 2017. Senate Bill 53 (“SB 53”) provided a new regulatory framework for incumbent local exchange carriers (“ILECs”) having more than 50,000 access lines within the state. Currently, the only ILEC falling within this category is Qwest Corporation dba CenturyLink QC (“CenturyLink”).
2. Immediately prior to the effective date of the amendments to the Act, CenturyLink was regulated by the Commission as a “mid-size carrier,” a designation that was removed from the Act by SB 53. NMSA 1978, § 63-9A-5.1 (repealed 2017).
3. On July 25, 2017, CenturyLink commenced this docket by filing its Petition for Rulemaking to Implement SB 53 and to Adopt Emergency Rules (the “Petition”). In the

Petition, CenturyLink asked the Commission to open a rulemaking proceeding to adopt rules to regulate carriers that serve more than 50,000 access lines in compliance with SB 53. In the Petition, CenturyLink contended that the Commission's Mid-Size Carrier Rules, as codified at 17.11.23 NMAC, 17.11.24 NMAC, and 17.11.25 NMAC, are no longer operative.

4. On March 20, 2019, the Commission issued its Order Issuing Notice of Proposed Rulemaking ("Order Issuing NOPR"). In the Order Issuing NOPR, the Commission instituted a rulemaking proceeding to repeal existing rule 17.11.24 NMAC, "Quality of Service Standards Applicable to Mid-Size Carriers," and to replace it with the proposed quality of service rule attached to that order (the "Proposed QS Rule"). The Commission also instituted a rulemaking proceeding to repeal existing rule 17.11.25 NMAC, "Consumer Protection Standards Applicable to Mid-Size Carriers," and to replace it with the proposed consumer protection rule attached to that order (the "Proposed CP Rule"). The Commission noted that "[t]he rules which may be adopted as final rules in this proceeding may include all, part, or none of the language in the proposed rules . . . and may include changes to the titles of Parts 17.11.24 and 17.11.25 NMAC as well." The Notice of Proposed Rulemaking (the "NOPR") was attached as an exhibit to the Order Issuing NOPR, as were the Proposed QS Rule and the Proposed CP Rule. The Order Issuing NOPR was served upon the Commission's comprehensive telecommunications service list on March 21, 2019.

5. On March 25, 2019, the NOPR was published on the New Mexico Sunshine Portal, <https://www.sunshineportalnm.com/>. On March 26, 2019, the NOPR was published in the Albuquerque Journal. On March 27, 2019, the NOPR was published in the Las Cruces Sun-

News. On April 9, 2019, the NOPR was published in the New Mexico Register. The NOPR was also published on the Commission's website, <http://www.nmprc.state.nm.us/>.

6. On May 17, 2019, pursuant to the Order Issuing NOPR, the Commission received Initial Comments from Staff of the Telecommunications Bureau of the Commission ("Staff"), the Attorney General of the State of New Mexico (the "NMAG"), the United States Department of Defense and All Other Federal Executive Agencies (the "DoD/FEA"), the Communications Workers of America – District 7 (the "CWA"), and CenturyLink. On June 18, 2019, the Commission received CenturyLink's Notice of Errata concerning CenturyLink's Initial Comments.

7. On May 31, 2019, pursuant to the Order Issuing NOPR, the Commission received Response Comments from Staff, the NMAG, the CWA, and CenturyLink.

8. On June 19, 2019, pursuant to the Order Issuing NOPR, the Commission held a public comment hearing (the "Hearing") in this matter, presided over by Chair Theresa Becenti-Aguilar.

9. On July 9, 2019, the record in this matter closed.

The Quality of Service Rule

General Comments

10. In its Initial Comments, Staff argues that adoption of the proposed rules would be in the public interest.

11. In his Initial Comments, the NMAG states his belief "that service quality remains a vital dimension of the retail services provided by telecommunications carriers to consumers in New Mexico" Moreover, the NMAG argues "that the Commission has the statutory

authority to adopt a new service quality rule for large [ILECs] . . .” The NMAG recommends “some limited modifications” to the proposed rules and urges the Commission to adopt the proposed rules with the proposed revisions.

12. With regard to the Commission’s authority to regulate quality of service under the amended Act, the NMAG argues that “SB 53 did not eliminate the Commission’s ability to regulate CenturyLink QC’s retail service quality.” The NMAG further argues that SB 53 “expressly preserves and does not diminish or expand . . . the authority of the Commission to establish reasonable quality of service standards’ [quoting NMSA 1978, § 63-9A-5.B(4)].”

13. The NMAG states that New Mexico’s neighbors, Arizona, Colorado, and Utah, “all have telecommunications service quality rules in place, to varying degrees.” The NMAG goes on to describe a proceeding before the New York Public Service Commission (the “NYPSC”) in 2016, to investigate the retail service quality of the largest ILEC in that state, Verizon-New York. The NMAG notes that the CWA had, in that matter, filed testimony “alleging that Verizon had been systematically neglecting and disinvesting in its legacy copper network . . .,” and that the NYPSC approved a settlement among the parties “that included several commitments by Verizon to improve its service quality . . .” The NMAG also cites quality of service proceedings before the utility commissions of California, Maine, New Hampshire, and Vermont. The NMAG concludes that “active oversight of large ILECs’ retail service quality performance is still a vital regulatory function of state regulators, despite the presence of competitive forces.”

14. In its Initial Comments, the DoD/FEA states that it supports adoption of the proposed rules. It further states that the proposed rules were developed in a cooperative effort

among Staff, the NMAG, the City of Albuquerque, and the DoD/FEA. The DoD/FEA states that it is a “major customer for the business telecommunications services provided by CenturyLink in New Mexico.” The DoD/FEA states:

It is essential to the nation’s safety, security, federal government operations, and military readiness that the telecommunications infrastructure and services available to [federal] employees be at reasonable prices and with high service quality, reflect state-of-the-art technology, provide redundancy and survivability, and be provisioned quickly and efficiently. Federal offices, facilities and installations in New Mexico would be impaired in fulfilling their mandates should CenturyLink QC fail to provide and maintain an adequate telecommunications infrastructure and provision services at reasonable prices and at high service quality.

The DoD/FEA concludes, “[I]n New Mexico today, business customers are not adequately protected by either competition or regulation.”

15. In its Initial Comments, the CWA states that it is a labor organization representing “approximately 320 CenturyLink employees in New Mexico who are mostly technicians.” The CWA states that it “conducted an investigation of the conditions at CenturyLink under which its members work,” and that it found that “for many years, CenturyLink has failed to maintain its physical copper plant.” Among other deficiencies, the CWA states that it has discovered “damaged poles that have not been removed, damaged pedestals with exposed contents, exposed cables above ground, remote terminals without functioning backup batteries, and insufficient redundancies in remote terminals to prevent outages.” The CWA further asserts that

“CenturyLink customers suffer from repeated outages, including 911, and the safety of CenturyLink’s employees and the public is jeopardized every day.”¹ The CWA argues that “competition is not working to protect New Mexico consumers’ and small businesses’ need for quality telecommunications services,” noting that “[f]or many customers, CenturyLink’s copper network is the only source of telecommunications services.” The CWA recommends that the Commission adopt the proposed rules. In addition, the CWA offers to “collaborate with the Commission and [large ILECs] to identify a limited set of additional metrics that monitor the ‘health’ of New Mexico’s telecommunications infrastructure.”

16. In its Initial Comments, CenturyLink first states that it “continues to believe that this proceeding and the currently pending effective competition case (Case No. 18-00295-UT) are inextricably intertwined.” CenturyLink states that, “in the event the Commission finds effective competition in at least one wire center in the effective competition proceeding, the Commission must ‘modify, reduce, or eliminate rules, regulations and other requirements applicable to the provision of such service . . .’ [quoting NMSA 1978, § 63-9A-8.A].” CenturyLink contends that “[t]his likely means that the exercise of establishing the appropriate level of regulation in New Mexico will have to be done twice in a short period of time if this rulemaking proceeds.” CenturyLink recommends that, “given the deregulatory intent of SB 53 and the pendency of the effective competition proceeding,” the Commission:

- (a) repeal 17.11.16 NMAC (Consumer Protection) and 17.11.22 NMAC (Quality of Service), and

¹ The CWA’s Initial Comments cite several informal and formal customer complaints obtained from the Commission’s records.

- (b) amend (or repeal and replace) the current [mid-size carrier] rules so that those two rules apply to LILECs [(large ILECs)], not midsize carriers . . .

17. CenturyLink cites the fiscal impact report (“FIR”) for SB 53, provided to the Legislature in 2017, to argue that “the intent of SB 53 was to relax regulation for CenturyLink QC.” CenturyLink contends that the level of regulation applicable to it as a LILEC should be “relaxed compared to the time when CenturyLink QC was regulated as a mid-size carrier.” CenturyLink further argues, citing the language of the FIR, that there should be “no significant difference” between the regulatory treatment for a LILEC and the regulatory treatment for rural ILECs, which serve fewer than 50,000 access lines, under the Rural Telecommunications Act of New Mexico (the “RTA”), NMSA 1978, § 63-9H-1 *et seq.* (the “RTA”).

18. CenturyLink acknowledges that, under the amended Act, “the Commission retains the authority, subject to certain listed limitations, to establish ‘reasonable’ quality of service standards . . . [citing NMSA 1978, § 63-9A-5.B].” However, CenturyLink contends:

The rules proposed in the NOPR would impose more stringent and burdensome rules than the rules in effect when the legislature passed SB 53 – they are essentially the same rules as the Commission applied to CenturyLink QC in 2009’s AFOR 3 plan, with automatic penalties removed. So, instead of “relaxing” regulation, they increase regulation compared to the [mid-size carrier] rules that applied when SB 53 was passed. As such, the proposed rules violate the language and intent of SB 53.

CenturyLink argues that SB 53 “requires the Commission to relax regulation immediately, irrespective of whether or when effective competition is established,” but, given that developing

relaxed regulation “will take time and should be an evidence-driven inquiry,” CenturyLink recommends application of mid-size carrier regulation in the meantime.

19. In its Response Comments, Staff first notes that the scope of the rulemakings that are the subject of this rulemaking proceeding “far exceeds that of Century Link’s petition for a determination of effective competition, which is limited to retail residential services.” Accordingly, “Staff supports continued separation of discussion of consumer protection and quality of service rulemaking from any potential [] rule adjustments in Case 18-00295-UT.” Staff further notes that the Initial Comments have the participants falling into “two camps,” CenturyLink versus everyone else.

20. With regard to the CWA’s suggestion to collaborate with the Commission to develop additional quality of service metrics, Staff states that it “does not oppose discussions to provide modified or additional metrics to better monitor the LILEC network.” However, Staff adds that it is “concerned that these discussions may serve to derail any meaningful resolution to this rulemaking proceeding” and “recommends holding off on those discussions for now.”

21. In his Response Comments, the NMAG notes that approximately two years have passed since SB 53 became law, and so, the NMAG recommends prompt adoption of the proposed rules (with the NMAG’s amendments, as described below).

22. In its Response Comments, the CWA again urges the Commission to adopt the proposed rules and presents additional information to support its argument that strong quality of service standards are needed. Specifically, the CWA cites increasing instances of outages affecting larger numbers of CenturyLink customers in recent years as well as higher trouble report rates and out-of-service periods. The CWA also reiterates its support for wire-center level

service standards to “protect rural and low-income customers,” in opposition to CenturyLink’s proposed revisions to statewide standards (discussed in more detail with regard to specific sections below).

23. In its Response Comments, CenturyLink warns that “[r]atcheting telephone regulation back up to monopoly-era levels will only assure that a declining number of New Mexico consumers keep 20th century telephone service, when they want 21st century broadband service.” CenturyLink objects to comments proposing “to regulate only one telecommunications provider with virtually the same service quality regulations from the first AFOR plan adopted in 2001.” CenturyLink contends that “there is no quality of service rule for [rural ILECs], even though the communities served by [rural ILECs] are far less competitive than the areas CenturyLink QC serves.” CenturyLink urges the Commission to “regulate with an even hand.” CenturyLink recommends setting aside the proposed rules and moving forward with workshops.

24. In response to the NMAG’s Initial Comments, CenturyLink takes issue with the NMAG’s references to neighboring states’ quality of service standards as supporting heightened regulation. CenturyLink states that, to the contrary, Arizona, Colorado, and Utah “have significantly reduced or eliminated service quality regulation in recent years.” CenturyLink further asserts that Washington, a state cited by the NMAG, has recently repealed its held order standard and its repair clearance standard. Moreover, CenturyLink notes that CenturyLink’s performance with regard to trouble reports in New Mexico “far exceeds” Washington’s standard. CenturyLink further notes that its only service quality reporting obligation in Washington is to report outages lasting more than 48 hours.

25. In response to the CWA's Initial Comments, CenturyLink objects that the CWA is "arguing for more restrictive rules than any AFOR plan, including penalties and other measures not permitted by SB 53." CenturyLink notes that the CWA "offered no specific rule provisions on these matters, so formulating a response is difficult," but CenturyLink "is willing to discuss those proposals and the policies behind them in the workshop process CenturyLink has proposed."

26. CenturyLink also disputes the CWA's references to consumer complaints, arguing that they "paint a misleading picture of service quality and network health." Further, though CenturyLink acknowledges that some of the photographs provided by the CWA "of substandard repairs demonstrate unacceptable work . . . such work is unacceptable to CenturyLink management." CenturyLink contends that such isolated instances do not reflect CenturyLink's overall performance in New Mexico, which should be assessed based upon "actual service quality performance data." CenturyLink cites service quality data provided to the Commission in Docket No. 17-00311-UT, *In the Matter of a Petition to Open Up a Docket for the Filing of Data by Large ILECs to Allow Commission Review in Compliance with Provisions of Senate Bill 53*, to conclude that its "network is robust and healthy."

27. CenturyLink concludes, "With a reasonable and minimal set of regulatory safeguards, the Commission can remove regulatory barriers to innovation and investment in broadband infrastructure that New Mexico needs, and move the New Mexico telecommunications marketplace into the 21st century."

28. At the Hearing, the CWA and CenturyLink presented oral comments largely consistent with their written comments. Staff commented in favor of wire-center level reporting,

as opposed to state-level reporting, due to the service quality differentials that may exist between urban and rural areas.

29. Also at the Hearing, the City of Albuquerque (the “City”) commented that it supports the NMAG’s Initial Comments and urges the Commission to exercise its regulatory authority. The City also argued that SB 53 “expressly preserves and does not diminish or expand the authority of the Commission to resolve consumer complaints, establish quality of service standards [*etc.*] . . .” The City further commented that CenturyLink has a “specific and special responsibility” due to its ILEC status and its “legacy infrastructure.”

30. Also at the Hearing, Dr. Robert Hausman, of Albuquerque, suggested “an escalating series of penalties . . . so that if the same problem recurs day after day, month after month, year after year, that we get from a trivial penalty to something substantial.” Dr. Hausman also referenced the photographs in the Initial Comments of the CWA, noting that the conditions depicted in the photographs can have a negative impact on property values.

Commission Determinations with Regard to General Comments

31. The Commission agrees with Staff, the NMAG, the DoD/FEA, the City, and the CWA, that the Commission should proceed with adopting rules specifically applicable to CenturyLink as a LILEC. The Commission rejects CenturyLink’s argument that the Commission should await the outcome of Docket No. 18-00295-UT, (the “Effective Competition Case”) before adopting any rules. CenturyLink’s argument that this rulemaking is “inextricably intertwined” with the Effective Competition Case does nothing to indicate which proceeding should be completed *first*. Moreover, the portions of the Act cited by CenturyLink support the conclusion that the Legislature intended the Commission to adopt general rules first, then decide

to what extent such rules should be “modif[ied], reduce[d], or eliminate[d] . . .” with respect to any particular services in any particular market areas determined to be subject to effective competition. NMSA 1978, § 63-9A-8.A (2017). Finally, as Staff notes, CenturyLink’s petition in the Effective Competition Case pertains only to retail residential telecommunications services, and so, other services, such as retail business telecommunications services, would be unaffected by the outcome of that case in any event.

32. The Commission also rejects CenturyLink’s argument that the quality of service rule adopted should reflect a lower level of regulation than the levels of regulation to which CenturyLink’s quality of service has been subject in the past. CenturyLink argues that the “deregulatory intent” of SB 53 requires this. However, as the NMAG notes, the amended Act “expressly preserves and does not diminish or expand . . . the authority of the Commission to establish reasonable quality of service standards . . .” NMSA 1978, § 63-9A-5.B(4). Only the Commission’s “enforcement of such standards” is limited by SB 53, and that specific limitation is recognized by the Commission with regard to sections 17.11.24.13.D and 17.11.24.18 of the Proposed QS Rule, discussed below.

33. The Commission is also not persuaded by CenturyLink’s assertion that lowering quality of service and consumer protection standards for telecommunications services will result in expanded broadband internet access. Nowhere does CenturyLink explain how the former would lead to the latter. For example, CenturyLink has not provided a budget analysis projecting potential savings to the company from deregulation in these areas. It is thus unclear (1) whether such savings would be significant, and (2) whether such savings would be used to expand broadband access in New Mexico. The Commission further notes that CenturyLink has been

awarded over \$1.2 million from the Commission's Broadband Program to support expansion of broadband access.²

34. Finally, the Commission notes the disturbing indications in the record that CenturyLink may be neglecting portions of its infrastructure used to provide telecommunications service, particularly in rural and low-income areas. CenturyLink admits that some of the photographs provided by the CWA indicate "substandard repairs" and "unacceptable work." CenturyLink does not explain how lower levels of quality of service regulation will remedy such deficiencies. The Commission finds that *robust* quality of service regulation is more likely to encourage CenturyLink to maintain and repair its wireline infrastructure.

Disputed Sections of the Proposed QS Rule

17.11.24.2 SCOPE

35. The NMAG proposes the following revision:

This rule applies to all large incumbent local exchange carriers ("LILECs") 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.~~

36. The NMAG states that "[t]his revision eliminates an irrelevant reference that was carried over from the baseline rule 17.11.22.2 NMAC."³ CenturyLink and Staff support the proposed revision.

² For this finding, the Commission takes notice of the records in Docket Nos. 18-00103-UT and 19-00109-UT.

³ When drafting the Proposed QS Rule, Staff used as a starting point 17.11.22 NMAC, the Commission's "Quality of Service" rule applicable to "all local exchange carriers, except incumbent rural telecommunications carriers, authorized by the Commission to provide retail telecommunications services in New Mexico . . ."

37. The Commission adopts the proposed revision.

17.11.24.3 STATUTORY AUTHORITY

38. The NMAG proposes the following revisions:

Sections ~~8-8-21, 59A-52-2, 59A-52-15, 59A-52-16, and 60-2C-38-8-4, 8-8-15, and 63-9A-5B~~ NMSA 1978.

39. The NMAG states that “[t]his revision corrects the rule’s citations to the appropriate statutory authorities.” Staff supports the proposed revisions.

40. The Commission adopts the proposed revision.

17.11.24.7.C DEFINITIONS⁴ (circumstances beyond a large service provider’s control)

41. CenturyLink proposes the following revision:

C. circumstances beyond a large service provider’s control are limited to:

... (2) extraordinary weather and other acts of God or force majeure events; or ...

42. No participant commented upon the proposed revision.

43. The Commission adopts the proposed revision. Merriam–Webster defines “force majeure,” for relevant purposes, as “an event or effect that cannot be reasonably anticipated or controlled – compare act of god.”⁵

44. The Commission adopts an additional revision. The Commission replaces the term “large service provider” with LILEC (large incumbent local exchange carrier). LILEC is

⁴ The CWA recommends, “[f]or the sake of completeness,” that the Commission include a definition for “service-affecting troubles (which include troubles such as cross-talk or static).” However, the CWA neither provides a definition nor proposes how the definition would be used in the rule.

⁵ <https://www.merriam-webster.com/dictionary/force%20majeure>, visited Oct. 18, 2019.

defined at proposed section 17.11.24.7.M and is used to describe the scope of the proposed rule at 17.11.24.2 NMAC. Using an alternative, undefined term is likely to cause confusion and uncertainty.

45. Finally, the Commission adopts a revision to the formatting of this subsection by replacing the words “are limited to” with “means,” to use the proper language for a rule definition.

17.11.24.7.F DEFINITIONS (designed services held order)

46. CenturyLink proposes the following revision:

designed services held order means an order for designed services where ~~facilities are not available that is not provisioned within forty five calendar days after the receipt of the customer’s order or within forty five calendar days after the customer’s requested service date; an order shall not be considered a held order if the customer was the cause of the delay that is not fulfilled within the time frames specified in 17.11.24.13 NMAC;~~

47. CenturyLink comments that the language of the Proposed QS Rule here is “inconsistent with the rule and confusing,” adding that it would be “[c]learer to simply reference the rule that sets the standard.” Staff opposes the proposed revision, arguing that removing the language may lead to “disputes . . . regarding when the clock on a customer order starts.”

48. The Commission agrees with CenturyLink and adopts the proposed revision.

17.11.24.7.I DEFINITIONS (held order)

49. CenturyLink proposes the following revision:

held order means an order that is not completed within the time frames specified in 17.11.24. NMAC ~~for a basic service placed by a customer whose premises are within one thousand feet of an existing terminal or pedestal, which, due to a lack of facilities, is not completed within thirty days after the receipt of the order (or within thirty days after the customer’s requested service date, where the customer requested a date more than five days after submission of the order);~~

~~an order shall not be considered a held order if the customer was the cause of the delay;~~

50. CenturyLink comments that the language of the Proposed QS Rule here is “inconsistent with the rule and confusing,” adding that it would be “[c]learer to simply reference the rule that sets the standard.” Staff opposes the proposed revision, arguing that it would remove “important definitions of what a held order constitutes.”

51. The Commission agrees with CenturyLink that the held order standards are described elsewhere in the rule. The Commission adopts the proposed revision, but with more specific rule references for the sake of clarity, as follows:

~~**held order** means an order for a basic service placed by a customer whose premises are within one thousand feet of an existing terminal or pedestal, which, due to a lack of facilities, is not completed within thirty days after the receipt of the order (or within thirty days after the customer’s requested service date, where the customer requested a date more than five days after submission of the order); an order shall not be considered a held order if the customer was the cause of the delay that is not completed within the time frames described in 17.11.24.12 NMAC;~~

17.11.24.7.M DEFINITIONS (large incumbent local exchange carrier (LILEC))

52. The NMAG proposes the following revision:

large incumbent local exchange carrier (LILEC) means an ILEC with more than 50,000 or more access lines within the state regulated pursuant to NMSA 1978 Section 63-9A of the Telecommunications Act;

53. The NMAG comments that the proposed revision “conforms the definition more closely to that adopted by SB 53.”

54. The Commission adopts the proposed revision.

17.11.24.7.N DEFINITIONS (non-basic services)

55. CenturyLink proposes the following revision:

non-basic services mean retail telecommunications services that are not a basic service, a ~~switched-access~~ local exchange service or a wholesale service governed by an interconnection agreement;

56. Staff does not object to the proposed revision “[s]ince both terms appear to refer to the same type of service.”

57. The Commission adopts the proposed revision.

17.11.24.8 REPORTING REQUIREMENTS FOR LILECs

58. CenturyLink proposes the following revision:

REPORTING REQUIREMENTS FOR LILECs: Unless otherwise specified, a LILEC shall provide data both by wire center listed alphabetically by name, and on a statewide average basis. A LILEC shall submit all reports to the commission in printed and electronic spreadsheet format. A LILEC shall file separate reports for non-designed and designed services for the categories specified in subsections A through F. A LILEC shall file reports on an annual basis, but shall compile data on a monthly basis. Reports shall be filed with the commission within 930 days of the period covered by the report.

59. The CWA notes its support for “the continuing requirement for geographic granularity” – *i.e.*, wire-center level reporting. The NMAG also argues in favor of wire-center level reporting, which would be retained with the proposed revision.

60. The Commission rejects the proposed revision as it would result in too long a delay in the Commission’s receipt of important information.

17.11.24.8.B REPORTING REQUIREMENTS FOR LILECs (Trouble report rate)

61. CenturyLink proposes the following revision:

Trouble report rate. A LILEC 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 upon~~ commission request, the reason a wire center exceeded the trouble report rate.

62. Staff opposes the proposed revision. Staff states that this change “tie[s] into CenturyLink’s change from monthly reporting to annual reporting for quality of service metrics in the rule.” Staff argues that “[t]his reporting should include an explanation any time CenturyLink QC does not meet the standards in the rule, and should not be upon Commission request.”

63. The Commission agrees with Staff and rejects the proposed revision.

17.11.24.8.C & .F REPORTING REQUIREMENTS FOR LILECs (Trouble reports cleared and Average repair interval)

64. CenturyLink proposes revising one or the other of the following subsections:

Trouble reports cleared. A LILEC shall report the percentage of out-of-service and all other trouble reports cleared by each wire center within 24 hours; and the average repair interval for out-of-service trouble reports.

~~**Average repair interval.** A LILEC shall report, by wire center, the average interval for repairing service.~~

65. CenturyLink argues that one or the other of the deletions above should be made as the provisions are “redundant to each other.” Staff, confusingly, references this proposal but concludes that CenturyLink “apparently does not propose changes.”

66. The Commission agrees with CenturyLink that the provisions are redundant and, moreover, could cause confusion. The Commission adopts the proposed revision to 17.11.24.8.C (Trouble reports cleared) and leaves the other subsection as is.

17.11.24.8.G & H REPORTING REQUIREMENTS FOR LILECs (Held orders and Business office and repair office answer time)

67. CenturyLink proposes the following revisions:

G. Held orders.

~~(1) — Non-designed services.~~ A LILEC shall report, by wire center and on a statewide average basis, the number of held orders for designed and 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, a LILEC 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 for which waiver petitions are pending or have
_____ been granted; and~~
- ~~_____ (g) orders cancelled by the customer.~~

~~(2) — Designed services.~~ A LILEC 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 for which waiver petitions are pending or have
_____ been granted; and~~
- ~~_____ (c) orders cancelled by the customer.~~

~~H. — Business office and repair office answer time.~~ A LILEC shall report separately for its business office and its repair office the percentage of calls answered within the time frames specified in 17.11.X.X NMAC.

68. With regard to subsection G, CenturyLink contends that “[h]eld orders are not problematic.” CenturyLink argues that “[r]eporting to the proposed level of detail is unnecessarily burdensome and provides little value to the Commission.” Staff objects to the proposed revisions, stating that it “believes the categories listed in the proposed rule are important for the Commission to track what is happening with held orders on an ongoing basis”

69. The Commission agrees with Staff and rejects the proposed revisions to subsection G.

70. With regard to subsection H, CenturyLink argues that “[t]his reporting standard should be deleted until a reasonable rule reflecting modern technologies and consumer expectations regarding answer times can be developed.”

71. The Commission finds that CenturyLink’s argument is vague and unhelpful. The Commission rejects the proposed deletion of subsection H. The Commission finds that the standards for “timely response by customer service representatives,” as provided in 17.11.24.17 should be incorporated by reference in subsection H, where 17.11.X.X stands in the Proposed QS Rule, and adopts that change.

72. The CWA proposes that the Commission retain the level of information concerning the duration of held orders for non-designed services present in 17.11.22.9.G(1)(f)-(k) NMAC. This would include breakdowns of “orders held for 15-30 days; orders held 31-90 days . . . [etc.],” and “orders cancelled by the customer.” 17.11.22.9.G(1)(f)-(k) NMAC. Staff objects to the proposed revision, stating that Staff “has experience monitoring held orders, and does not believe it is necessary to break down the held order data to that degree . . .”

73. The Commission agrees with Staff and rejects the proposed revision.

17.11.24.9 OUTAGES

74. CenturyLink proposes the following revision:

A. A LILEC shall provide to the Commission’s Consumer Relations Division all of the notifications and reports that it provides to the Federal Communications Commission (“FCC”) pursuant to 47 C.F.R. 4, Disruptions to Communications, for its operations in New Mexico as a “wireline communications provider” as defined in 47 C.F.R. 4.3, ~~on the same timeframes as within 30 days after they are provided to the FCC.~~ Carriers may redact from those notifications and reports to the Commission any information concerning their operations outside of New Mexico.

75. CenturyLink argues that it “must focus on resolving outages, then making FCC reports, then redacting those reports for New Mexico. These efforts take time.” Staff objects to the proposed revision, arguing that “[t]he Commission should be informed in a timely manner regarding the reason for any outages that affect CenturyLink QC customers in New Mexico.” Staff adds the “[a] timely response will allow the Commission to act promptly to an outage situation should the Commission determine immediate action is necessary to protect the health, safety, and welfare of those affected.”

76. The NMAG argues that this section of the Proposed QS Rule, even without the proposed revision, “will reduce the reporting burden on CenturyLink,” while “still providing the essential information on outages that the Commission should have at its disposal.”

77. The Commission agrees with Staff and rejects the proposed revision. The Commission adopts a revision to remove the “A.” from the formatting, as there are no other subsections in this section.

17.11.24.10.A PROVISION OF SERVICE DURING MAINTENANCE OR EMERGENCIES (Emergency procedures)

78. CenturyLink proposes the following revision:

A. Emergency procedures. Each LILEC 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. LILECs shall file written plans detailing their emergency procedures with the telecommunications bureau of the commission no later than 60 days after certification by the commission. Any changes to the plan shall be filed with the telecommunications bureau of the commission within 30 days of the change.

79. CenturyLink argues that “[i]t is industry standard practice to develop these plans.

Adding an undescribed regulatory ‘certification’ and filing process to these plans is unnecessary

and unduly burdensome.” Staff objects to the proposed revision, arguing that CenturyLink “should share any emergency procedures they have with Staff and the Commission, and are puzzled and somewhat alarmed that CenturyLink QC would not want to share that with the Commission.” Staff contends that, in the events of an emergency, “the Commission would be in the position of having to request that anyway.”

80. The Commission agrees with Staff that the Commission should have the current version of any emergency plans and procedures on file. The Commission agrees with CenturyLink that the reference to a “certification” in this section of the Proposed QS Rule is ambiguous, and Staff has not explained what this certification is.

81. Moreover, there are defects in this subsection that are not addressed by any participant. The LILEC should establish procedures for “preventing **and** mitigating” the impacts of emergencies. Further, there is no reason to limit the emergencies to those caused by the listed potential events. The subsection is revised to read as follows:

A. Emergency procedures. Each LILEC shall establish, and instruct its employees regarding, procedures for preventing ~~and~~ mitigating interruption to or impairment of telecommunications service in emergencies, including but not limited to those resulting from power failures, sudden and prolonged increases in traffic, illness of operators, or force majeure. LILECs shall file written plans detailing their emergency procedures with the telecommunications bureau of the commission ~~no later than 60 days after certification by the commission.~~ Any changes to the plans shall be filed with the telecommunications bureau of the commission within 30 days of the change.

17.11.24.10.C PROVISION OF SERVICE DURING MAINTENANCE OR EMERGENCIES (Maintenance scheduling)

82. CenturyLink proposes the following revision:

C. Maintenance scheduling. LILECs shall schedule maintenance requiring extended service interruptions when it will cause minimal

inconvenience to customers. To the extent possible, LILECs shall notify customers in advance of extended service interruptions. ~~Based upon their prior experience, LILECs 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 hours between the hours of 8:00 a.m. to 10:00 p.m. If a LILEC cannot provide emergency service, it shall file a report of the service interruption with the telecommunications bureau of the commission.~~

83. CenturyLink simply states that “[t]o CenturyLink’s knowledge, this has never been an issue.” Staff agrees that the language “Based upon their prior experience,” should be eliminated “as it seems extraneous, and confusing.” However, Staff “fails to see why a LILEC would not want to provide emergency service to 1,000 or more customers during those important active customer hours, and Staff opposes the proposed revision.”

84. The Commission agrees with Staff and adopts the proposed revision only to the extent of the elimination of the language “Based upon their prior experience.”

17.11.24.10.D PROVISION OF SERVICE DURING MAINTENANCE OR EMERGENCIES (Loss of switch plan)

85. CenturyLink proposes the following revision:

D. Loss of switch plan. Each LILEC 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. ~~LILECs shall file the plans with the telecommunications bureau of the commission no later than 60 days after certification by the commission. Any changes to the plan shall be filed with the telecommunications bureau within 30 days of the change.~~

86. CenturyLink argues that “[i]t is industry standard practice to develop these plans. Adding an undescribed regulatory ‘certification’ and filing process to these plans is unnecessary and unduly burdensome.” Staff opposes the proposed revision, arguing that it is “important for

the Commission to monitor” these plans that “this information should be provided directly to the Commission.”

87. The Commission agrees with Staff that the Commission should have the current version of any such contingency plans on file. The Commission agrees with CenturyLink that the reference to a “certification” in this section of the Proposed QS Rule is ambiguous, and Staff has not explained what this certification is.

88. There are also defects in this subsection that are not addressed by any participant. The LILEC should establish procedures to “prevent **and** minimize” service interruptions. Further, some of the language of the proposed subsection is confusing. The subsection is revised to read as follows:

D. Loss of switch plan. Each LILEC shall develop a contingency plan to prevent ~~and~~ 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~~ resulting service interruptions. Each LILECs shall file the plans with the telecommunications bureau of the commission no later than 60 days after certification by the commission. Any changes to the plan shall be filed with the telecommunications bureau within 30 days of the change.

17.11.24.11 ACCESS TO AND AUDIT OF DATA

89. CenturyLink proposes the following revision:

ACCESS TO AND AUDIT OF DATA: Unless otherwise authorized by the commission, a LILEC shall make all records required by this rule available to the commission, staff, or its authorized representatives at any time upon reasonable notice. A LILEC shall make customer proprietary network information available to the commission to the extent allowed by law. A LILEC shall retain records of reports, measurements, summaries, and backup information for at least two years. The commission or staff may periodically audit a LILEC’s quality of service data. Records provided pursuant to this section outside of a docketed proceeding shall be treated as confidential unless and until a request for

public disclosure is received for such documents. Records provided within a docketed proceeding shall be provided consistent with any protective orders or procedural orders entered in that proceeding.

90. CenturyLink argues that “[c]onditionally preserving confidentiality of documents provided pursuant to audit requests serves the interest of full regulatory access and frank exchanges with the provider.” Staff objects to the proposed revision, arguing that “[t]his requirement ties the hands of the Commission in its treatment of confidential treatment.”

91. Staff notes that, generally, “a party claiming confidential treatment must provide a showing under the trade secrets act that the information should be held confidentially.” Staff recommends that “any information provided by the company subject to an audit be treated as other information is treated in other dockets before the Commission.”

92. The CWA argues that “all service quality data should be public” for two reasons (1) “to increase accountability by LILECs to regulators, legislators, communities and consumers,” and (2) “to allow for informed decision-making by those consumers who may have alternatives”

93. The Commission agrees with Staff and rejects the proposed revision.

17.11.24.12.B & C INSTALLATION OF BASIC LOCAL EXCHANGE SERVICE
(Premises within 1000 feet of distribution terminal and Premises 1000 feet or more from a distribution terminal)

94. CenturyLink proposes the following revision:

B. ~~Premises within 1000 feet of distribution terminal~~Order Provisioning and Communication.

(1) Whenever a LILEC receives an application for installation of a primary local exchange line ~~for a premises that is within 1000 feet of a distribution terminal~~, the LILEC shall provision service within ~~five~~ten business

days of receipt of the service request, or by such later date as the customer may request.

(2) When LILEC cannot fill an order for a primary local exchange line within ten 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 business days of the date the service order is received by the LILEC. The LILEC shall promptly notify the customer of any changes in the expected installation date.

~~C. Premises 1000 feet or more from distribution terminal. Whenever a LILEC 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 LILEC shall provision service within 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 LILEC.~~

95. CenturyLink argues that the proposed revisions would “simplify and streamline the provisioning process.” CenturyLink further argues that they would “avoid confusion regarding communication to the customer based on the number of feet from a distribution terminal.” Staff opposes the proposed revisions. Staff states that it “does not understand why CenturyLink QC would want to remove this limitation as it is Staff’s understanding that CenturyLink QC’s line extension policy does not require additional charges for service within 1,000 feet of a distribution terminal.” Staff adds that “[o]rders for basic local exchange service beyond the service requirements of 1,000 feet would likely require additional charges and time to service for a requesting customer.”

96. Staff adds that it is “[m]ore worrisome” that CenturyLink proposes changing the standard for the installation of basic local exchange service to ten business days as “[t]he standard has always been five days.” Staff states that it “sees no reason to change this now,” as the change “can only be for the convenience of CenturyLink QC.”

97. The Commission agrees with Staff and rejects the proposed revisions.

17.11.24.12.D INSTALLATION OF BASIC LOCAL EXCHANGE SERVICE (Line extension policy)

98. CenturyLink proposes the following revision:

~~D. — Line extension policy. Each LILEC shall file its line extension policy for commission review and approval by March 1, 20XX and shall file any subsequent material changes to the policy for commission review and approval in accordance with commission procedures for tariff changes.~~

99. CenturyLink argues that this subsection “is not needed because CenturyLink QC has had a tariffed line extension policy for decades.” No participant commented upon the proposed revision.

100. The Commission rejects the proposed revision. CenturyLink’s argument amounts to saying “we are in compliance with this requirement, so the requirement is unnecessary.”

101. In addition, the Commission finds that the “March 1, 20XX,” deadline carried over from 17.11.22 NMAC is unnecessary as the applicable tariffs are already on file with the Commission. The Commission revises the subsection to remove the phrase “by March 1, 20XX.”

17.11.24.13.D INSTALLATION OF DESIGNED SERVICES (Installation interval – new facilities required)

102. CenturyLink proposes the following revisions:

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

(1) When the delay is caused by circumstances beyond the LILEC'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) A LILEC shall report any case in which it claims the delay is caused by circumstances beyond the reasonable control of the LILEC to the affected customer who shall have the right to challenge the exception.

103. CenturyLink argues that the credit provision “is not a quality of service standard, but an enforcement mechanism not permitted by SB 53.” Staff objects that “[r]emoving the language removes the LILEC’s incentive to provision designed services within the 45 day required timeframe”

104. The Commission agrees with CenturyLink that SB 53 has removed any authority that the Commission had to require a customer credit for a quality of service violation. *See* NMSA 1978, § 63-9A-5.B(4) (2017). The Commission adopts the proposed revision.

105. With regard to the reference to 17.11.22.25 NMAC, in subsection D(1), CenturyLink states “Need to fix reference.” The Commission agrees and replaces the language “a waiver of the held order standard pursuant to 17.11.22.25 NMAC,” with “an exemption or variance pursuant to 17.11.24.19 NMAC”

17.11.24.14 DIRECTORY ASSISTANCE AND INTERCEPT

106. CenturyLink proposes the following revisions:

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

~~B. If an LILEC makes an error in the listed number or name of any customer, then until a new directory is published, the LILEC 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 LILEC makes an error in the number, name or address of any listing of any customer, the LILEC shall place the customer’s correct name;~~

address and telephone number in the files of the directory assistance and intercept operators within 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 LILEC shall provide intercept service for all calls to the former number for the lesser of 60 days or until a new directory is issued. If the change is made at the initiative of the LILEC, the LILEC shall provide intercept service for the former number at no charge to the customer for the greater of 60 days or the remaining life of the current directory. The LILEC shall provide the correct number to its information operator within 24 hours of the number change (except during times of regular maintenance, in which case the listing shall occur within 48 hours of service connection) or send it to the carrier providing information operator service within 24 hours if the local exchange carrier does not provide its own service. The LILEC's intercept recording shall state how the caller can obtain the new number.~~

107. CenturyLink argues that “[d]irectory and publishing rules are obsolete and unnecessary.” Staff objects to the proposed revisions, arguing that “directory listings . . . are still important for those older customers of the [public switched telephone network] that rely on information and directories to look up numbers and get that information.” Staff contends that “listing requirements are important, and call intercept services are useful to those whose numbers are still listed in the directory to notify callers of the changed number.”

108. The Commission agrees with Staff and rejects the proposed revisions. The Commission makes the following revisions: each “an LILEC,” in subsections A, B, and C, is replaced with “a LILEC”.

17.11.24.16 QUALITY OF SERVICE STANDARDS FOR NON-DESIGNED SERVICES

109. CenturyLink proposes the following revisions:

A. Installation of primary local exchange lines. A LILEC shall complete at least 96 percent of all requests for installation of primary local exchange lines within the time frames established ~~17.11.22.12~~ NMAC.

B. Trouble reports.

(1) A LILEC's annual trouble report rate shall not exceed five trouble reports per month per 100 access lines in service per wire center, calculated on a statewide basis.

(2) A LILEC's annual repeat trouble report rate shall not exceed 18 percent of total ~~monthly~~ trouble reports, on a wire center statewide basis.

C. Out-of-service clearances.

(1) A LILEC shall clear an annual average of 85 percent of out-of-service trouble reports ~~in each month~~ within 24 hours, calculated on a wire center basis.

(2) ~~The monthly~~ annual average repair interval, calculated on a statewide basis, ~~in a wire center~~ shall not exceed 20 hours.

110. With regard to the proposed revision to subsection A, CenturyLink simply states “Fix reference.”

111. The Commission corrects the reference from 17.11.22.12 NMAC to 17.11.24.12 NMAC.

112. With regard to the proposed revisions from reporting on a monthly basis to reporting on an annual basis, in subsections B and C, CenturyLink has not provided any comment. Staff opposes the proposed revisions, arguing that “reporting for these metrics should be calculated on a monthly [basis] . . . with annual totals for both.” Staff notes that the monthly reporting “can be submitted in a single annual report.”

113. The Commission agrees with Staff and rejects the proposed revisions.

114. With regard to the proposed revisions regarding reporting on a statewide basis instead of a wire center basis, in subsections B and C, CenturyLink argues that the Proposed QS Rule requires “not only wire center reporting, but would impose standards . . . on a wire center by wire center basis.” CenturyLink argues that, “[i]n addition to violating the deregulatory intent of SB 53, this would be unfair, exposes CenturyLink QC to violations it cannot avoid, and would not provide an accurate measure of service quality.” CenturyLink “suggests that the

Commission adopt statewide quality of service standards, even if it requires reporting at the wire center level.”

115. Staff objects to the proposed revisions. Staff argues that “it is important to track [CenturyLink’s] network performance by wire center, as better network performance in larger metropolitan areas will ‘drown out’ poor performance in more rural, sparsely populated areas.”

116. The CWA comments that “the Commission’s proposed rules appropriately retain the continuing requirement for geographic granularity.” The CWA adds that “[t]his level of reporting is important to ensure that statewide averages do not mask areas where service quality problems may exist and persist.” Moreover, the CWA further argues that “[a]s CenturyLink shifts its focus to its enterprise business and customers in urban areas, wire center level quality of service standards are necessary to ensure that CenturyLink does not abandon its residential and small business customers in the less profitable rural and low-income wire centers.”

117. The Commission agrees with Staff and the CWA and rejects the proposed revisions.

118. With regard to subsection (B)(2), the CWA proposes revising the repeat trouble report rate standard from the 18 percent in the Proposed QS Rule to 12 percent. The CWA argues that the repeat trouble report rate “is an important measure of the condition of the copper network.” The CWA states that, “[i]f a[] LILEC fails to fix outside plant adequately on the field technician’s first visit, the consequence is a repeat trouble report” The CWA argues that the 18 percent standard is “lenient,” indicating “a high level of tolerance for chronic problems that likely require the replacement or repair of defective plant to remedy.” In the alternative, the CWA suggests that, if the Commission retains the 18 percent standard, then the Commission

“should supplement the rules such that if the repeat trouble report rate exceeds 15 percent for more than three months during any part of a consecutive twelve-month period, the LILEC would be required to submit a remediation plan for addressing the chronic problems.”

119. With regard to the CWA’s proposed revisions, Staff states that it “is open to improvements in the quality of service metrics, and would defer to CWA’s expertise on this issue, the repeat trouble report rate has historically been 18%.” Staff adds that, “[i]f the Commission is inclined to tighten the standard on this metric, Staff would recommend a 15% metric with the reporting requirements as stated in the rule.”

120. The Commission agrees with the CWA and revises the repeat trouble report rate standard from 18 percent to 12 percent.

17.11.24.17 TIMELY RESPONSE BY CUSTOMER SERVICE REPRESENTATIVES

121. CenturyLink proposes the following revisions:

~~A. — Standards. A LILEC’s business and repair offices shall answer calls within an average of 35 seconds. If a carrier uses an automated response system, the system shall transfer calls to a customer service representative within an average of 35 seconds of the customer’s selection or within 40 seconds if the customer does not make a selection. A LILEC shall ensure that no more than one percent of calls to its business offices reach a busy signal and that no more than one percent of calls to its repair offices reach a busy signal.~~

~~B. — Reports. A LILEC shall file an exception report within 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 LILEC, and any known results of that remedial action.~~

122. CenturyLink argues that “[t]hese standards do not reflect modern customer service methods, expectations, or technologies,” and should be rejected. CenturyLink states that “many (and likely increasing to most) customer interactions with CenturyLink are online.

Customers ask billing and repair questions online, and these are handled through online chats.” CenturyLink states that it also makes telephone assistance available, “but in many instances standard customer questions are handled through recorded messages or computer voice recognition and response systems, and a customer never speaks to – or even wishes to speak to – a human representative.” CenturyLink contends that “[t]hese and other interactions are handled in this very same way across thousands of companies and industries, but the proposed rules do not permit or recognize these facts.” CenturyLink concludes that it “is open to discussing a replacement rule, but the best solution, given the competitive nature of the telecommunications marketplace and advances in technology, is to let dynamic market forces drive how CenturyLink QC responds to its customers’ billing and repair inquiries, not static regulations.”

123. Staff objects to the proposed revisions, stating that “Staff’s experience in receiving and reviewing these reports is that CenturyLink QC generally misses the standards, and continually proposes remedies to meet the standards such as hiring more staff during busy periods such as Mondays.” With regard to chat services and other online assistance, Staff objects that “people many times still want to talk to a service representative by phone, given that many customers are not comfortable using a company chat service even though they may be connected to the internet.” In such cases, Staff contends, “knowing they will be addressed in a timely manner is important.”

124. The NMAG also objects to CenturyLink’s proposed revisions, arguing that “it remains important for the company’s service subscribers to have timely access to a live customer service representative when they desire to do so” The NMAG cites, as examples, those

instances “when an automated response system will not answer their question or meet their specific needs.”

125. The CWA also objects to CenturyLink’s proposed revisions. The CWA notes its support for “CenturyLink’s pursuit of innovative avenues to communicate with customers,” but argues that “it remains necessary to have an experienced human representative available in reasonable time to respond to customer concerns.” The CWA adds the “[o]nline forms and chats, while helpful, do not provide the same level of service as a customer service agent,” and describes the allegations of two informal complaints as illustrative examples.

126. The Commission agrees with Staff, the NMAG, and the CWA, and rejects the proposed revisions.

127. The NMAG recommends the following revision to subsection A:

A. Standards. A LILEC’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 to speak with a customer service representative or within forty (40) seconds if the customer does not make a selection. A LILEC 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.

128. The NMAG makes this recommendation “to respond to CenturyLink QC’s observation that many such interactions now occur on-line or via automated response systems”

129. The Commission adopts the proposed revision.⁶

⁶ The CWA “encourages the Commission to expand the proposed rules to include reasonable customer protections for online customer service communications, as well,” but does not provide any proposed rule language.

17.11.24.18 INDIVIDUAL CUSTOMER CREDITS

130. CenturyLink proposes the following revisions:

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

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

~~(2) — The LILEC 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 LILEC;~~

~~(c) — force majeure; or~~

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

131. CenturyLink contends that “[t]hese are not service quality standards, but are enforcement mechanisms not permitted by SB 53.” Staff objects to the proposed revisions, arguing that “providing credits for customers for outages is appropriate, and would provide an incentive for CenturyLink to maintain its facilities to prevent outages that would lead to the issuance of these customer credits.” Staff contends that “it is only fair to the customer.”

132. The Commission agrees with CenturyLink that SB 53 has removed any authority that the Commission had to require a customer credit for a quality of service violation. *See* NMSA 1978, § 63-9A-5.B(4) (2017). The Commission adopts the proposed revisions.

///

The Consumer Protection Rule

General Comments

133. As noted above, Staff, in its Initial Comments, argues that adoption of the proposed rules would be in the public interest.

134. In his Initial Comments, the NMAG argues that “the Commission has the authority to adopt a consumer protection rule applicable to large ILECs, and should do so in this proceeding.” The NMAG further argues that “a large part of the value” of the Commission’s consumer protection role “is preventative; by detailing how ILECs and their customers should interact on these matters, not only is misconduct curbed, there also is less chance for misunderstandings that may result in customer complaints.” The NMAG supports adoption of the Proposed CP Rule, with a modification to section 17.11.25.3, Statutory Authority, described below.

135. As noted above, DoD/FEA, in its Initial Comments, states that it supports adoption of the proposed rules.

136. As noted above, the CWA recommends that the Commission adopt the proposed rules. The CWA comments that, “[j]ust as there is insufficient competition to yield adequate service quality, so too is there insufficient competition to protect consumers adequately from harm caused by consumers’ lack of negotiating strength with LILECs when consumers purchase basic local exchange service.”

137. As noted above, CenturyLink recommends that the Commission:

- (a) repeal 17.11.16 NMAC (Consumer Protection) . . . , and

- (b) amend (or repeal and replace) the current [mid-size carrier] rules so that those two rules apply to LILECs, not midsize carriers . . .

138. As further noted above, CenturyLink argues that the intent of SB 53 was to relax regulation as compared to mid-size carrier regulation, and that there should be no significant difference between the regulatory treatment of a LILEC and the regulatory treatment of a rural ILEC. With regard to consumer protection in particular, CenturyLink states, “[G]iven the Commission’s general authority in the public interest, CenturyLink does not believe that the Legislature intended to withdraw consumer protection standards from the Commission’s jurisdiction even after SB 53.” In its Response Comments, CenturyLink adds that, as the Commission’s authority here is “merely implicit from the Commission’s general authority, the Commission should not adopt consumer protection rules that affect only one provider and not others.”

Commission Determinations with Regard to General Comments

139. The Commission rejects CenturyLink’s argument that the Commission’s authority to regulate LILECs with regard to consumer protection is “merely implicit from the Commission’s general authority.” To the contrary, the amended Act expressly preserves, and “does not diminish or expand” the Commission’s authority to resolve complaints concerning “consumer protection.” NMSA 1978, § 63-9A-5.B(3) (2017). This language does not indicate a Legislative intent to lower the level of regulation applicable to LILECs with regard to consumer protection.

140. The Commission agrees with the NMAG that a strong, clear consumer protection rule is valuable for resolving consumer complaints in an equitable manner as well as for

providing a road map for the LILEC and its customers to avoid misconduct and misunderstandings.

Disputed Sections of Proposed CP Rule

17.11.25.3 STATUTORY AUTHORITY

141. The NMAG proposes the following revisions:

Sections ~~8-8-21, 59A-52-2, 59A-52-15, 59A-52-16, and 60-2C-38-8-4, 8-8-15, and 63-9A-5B~~ NMSA 1978.

142. The NMAG argues that this section “should be corrected to reflect the same statutory citations” as for the Proposed QS Rule. No participant commented on this proposed revision.

143. The Commission adopts the proposed revision.

17.11.25.9 ACCESS TO AND AUDIT OF DATA

144. CenturyLink proposes the following revisions:

ACCESS TO AND AUDIT OF DATA: Unless otherwise authorized by the commission, a carrier shall make all records required by this rule available to the commission, staff with the consent of the commission, or its authorized representatives at any time upon reasonable notice. A LILEC shall make customer proprietary network information available to the commission to the extent allowed by law. A carrier shall retain all records required by this rule for at least two years. The commission, or staff with the consent of the commission, may periodically audit the timeliness and accuracy of carriers’ customer service and repair records. Records provided pursuant to this section outside of a docketed proceeding shall be treated as confidential unless and until a request for public disclosure is received for such documents. Records provided within a docketed proceeding shall be provided consistent with any protective orders or procedural orders entered in that proceeding.

145. CenturyLink argues that “[c]onditionally preserving confidentiality of documents provided pursuant to audit requests serves the interest of full regulatory access and frank exchanges with the provider.” Staff objects to the proposed revisions, arguing that “as the

Commission already has processes and procedures for the treatment of confidential information” at the time that a request is made for confidential treatment, these provisions “need not be written into the rule.”

146. The Commission agrees with Staff and rejects the proposed revisions.

147. The CWA supports this subsection of the Proposed CP Rule but notes a concern that the proposed language in the last sentence “could be read to refer to the timeliness and accuracy of consumer service *records* rather than consumer service.” The CWA recommends the following proposed revision to the last sentence of the section for purposes of clarification:

The commission, or staff with the consent of the commission, may periodically audit (1) the timeliness and accuracy of carriers’ consumer service; (2) the timeliness and effectiveness of carriers’ repair; and (3) the comprehensiveness and accuracy of carriers’ consumer service records and repair records.~~The commission, or staff with the consent of the commission, may periodically audit the timeliness and accuracy of carriers’ customer service and repair records.~~

148. Staff opposes the proposed revision, arguing that “this section is meant to refer to the access and audit of data in a more general sense, and as written does not preclude the Commission from requesting information reflected in the rule concerning customer service, and repair and service records.”

149. The Commission agrees with Staff and rejects the proposed revision as this sentence is focused upon auditing of “timeliness and accuracy” of *records*.

17.11.25.10 CUSTOMER COMPLAINT TRACKING

150. CenturyLink proposes the following revisions:

~~A. — A LILEC shall maintain a record of all oral and written complaints, including informally resolved billing disputes, made by or on behalf of customers, which shall contain:~~

- ~~———— (1) — the date the complaint was lodged;~~
- ~~———— (2) — the class of customer (residential or business);~~

~~_____ (3) the category of the complaint (based on the consumer relations division's list of complaint categories); and~~

~~_____ (4) the region within the state (e.g., by wire center, exchange, county).~~

B. A LILEC shall not retaliate against a customer for any complaint made by the customer to the commission or any other person.

~~C.~~ Upon request of the commission or staff, and for a specified time period not to exceed two years, a LILEC shall compile and submit to the commission reports that state the total number of complaints recorded pursuant to Subsection A of this section and the number of such complaints categorized by the:

~~_____ (1) the category of the complaint;~~

~~_____ (2) region within the state (e.g., by wire center, exchange, county);~~

and

~~_____ (3) class of customer (residential or business).~~

D. A LILEC shall cooperate with the commission, the consumer relations division, and staff in resolving complaints.

151. CenturyLink argues, with regard to subsection A, that “[t]his standard is so vague it is impossible and/or unduly burdensome to comply with.” CenturyLink adds that “[t]he requirements in several other proposed rules regarding disputes, especially 17.11.25.22 NMAC, provide sufficient protections to consumers without adding unclear and unnecessary busywork rules.” Staff objects to the proposed revisions. Staff contends that “eliminating any requirements for recordkeeping . . . will blind the Commission of understanding the nature and frequency of complaints.” Staff argues that this would hinder the Commission’s efforts “to understand and remedy the root problems leading to those complaints.”

152. The Commission agrees with Staff and rejects the proposed revisions.

153. The CWA “fully supports the Commission’s proposed retention of this section” from 17.11.25.10 NMAC. However, the CWA recommends that the Commission require collection and retention of more specific complaint information, including the name and address of the complainant and the “wire center or exchange” (instead of “wire center, exchange or

county”). The CWA also recommends “that the rule indicate whether the consumer relations division is associated with the LILEC or the PRC.” The CWA also recommends that the Commission require collection and retention of “the outcome of consumers’ complaints (to increase carrier accountability) as well as the dates of such resolution (so one could assess the timeliness of resolution . . .).”

154. Staff does not object to the proposed revision to eliminate the word “county” from 17.11.25.10.A(4), and 17.11.25.10.C(2), as the information may not be as useful as wire center or exchange in those provisions. Staff agrees with the CWA that having information concerning the manner of resolution and date of resolution of each complaint would be useful.

155. The Commission agrees with Staff and the CWA and adopts the following revisions:

A. A LILEC shall maintain a record of all oral and written complaints, including informally resolved billing disputes, made by or on behalf of customers, which shall contain:

- (1) the date the complaint was lodged;
- (2) the class of customer (residential or business);
- (3) the category of the complaint (based on the consumer relations division’s list of complaint categories); and
- (4) the region within the state (e.g., by wire center, or exchange, county);
- (5) how the complaint was resolved; and
- (6) the date of resolution.

B. A LILEC shall not retaliate against a customer for any complaint made by the customer to the commission or any other person.

C. Upon request of the commission or staff, and for a specified time period not to exceed two years, a LILEC shall compile and submit to the commission reports that state the total number of complaints recorded pursuant to Subsection A of this section and the number of such complaints categorized by the:

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

D. A LILEC shall cooperate with the commission, the consumer relations division, and staff in resolving complaints.

17.11.25.11.E ACCESS TO SERVICE AND RATE INFORMATION (When a customer initially subscribes . . .)

156. CenturyLink proposes the following revisions:

E. When a customer initially subscribes to basic local exchange service, a LILEC shall inform the customer, in English or Spanish, as requested by the customer:

(1) that a low income telephone assistance program (LITAP) is available to qualifying residential customers and shall ask if the customer would like to receive further information about the program. If the customer answers affirmatively, the LEC shall inform the customer:

(a) that applications are available at its billing offices or that the LILEC will mail an application to the customer;

(b) that the customer must submit to the LILEC a completed application and proof that the customer meets the eligibility requirements for one or more need-based assistance programs administered by the human services department;

(c) if the customer does not have such proof, the LILEC shall advise the customer to contact his or her local human services department income support division office or call the HSD customer help desk at its toll free telephone number for information on how to obtain proof of eligibility;

(d) ~~of other community assistance programs that may be available; and~~

(e) that the customer may obtain additional assistance from the commission's consumer relations division and the LILEC shall provide the toll-free telephone number of the commission's consumer relations division.

(2) ~~that a third party notification program is available to residential customers; and~~

(3) ~~of the existence of "900" number calling, specifically noting that the calling party incurs a charge each time a "900" number is called, and shall offer "900" number blocking at no charge to the customer.~~

157. With regard to subsection E(1)(d), CenturyLink contends that "[t]his obligation is unreasonably vague and unnecessary." As to subsection E(2), CenturyLink argues that the "third party notification" issue is obsolete in today's market and the requirement could actually increase rather than decrease customer confusion." As to subsection E(3), CenturyLink argues

that “[t]here are extensive FTC rules regarding 900 numbers – and 900 number calling and billing is nearly zero in today’s market.”

158. Staff does not oppose the proposed revisions. Staff agrees that the “language appears to be irrelevant”

159. The Commission agrees with Staff and CenturyLink and accepts the proposed revisions.

160. Staff proposes a revision of its own, however. Staff recommends new language for subsection E(1)(d), “that would require the LILEC to provide contact information for the Universal Service Administrative Company (“USAC”), [which] is the administrative arm of the Federal Communications Commission (“FCC”) responsible for administering the FCC’s Federal Universal Service Program, of which the federal Lifeline Program is a part” Staff’s proposed revision reads as follows:

(d) the contact information for the Universal Service Administrative Company, responsible for administering the FCC’s Lifeline Program, including phone number, email contact, and website information;

161. The Commission adopts Staff’s proposed revision. The Commission also adopts the following revision: in the last portion of subsection E(1), “the LEC shall inform the customer” is replaced with “the LILEC shall inform the customer”

17.11.25.13.B TARIFFS AND BOUNDARY MAPS

162. CenturyLink proposes the following revision:

B. ~~Where possible, a~~ Each LILEC shall post tariffs on its website and make copies available for inspection by the public during regular business hours at its business offices in New Mexico.

163. CenturyLink did not comment upon its proposed revision. Staff supports the proposed revision. The Commission agrees with CenturyLink and Staff and adopts the proposed revision.

17.11.25.15 INFORMATION REQUIRED SEMI-ANNUALLY

164. There are no proposed revisions to this section, but the CWA posed a question concerning it. In the Proposed CP Rule, the section reads as follows:

A. Information provided in English and Spanish. A LILEC shall semi-annually provide information to consumers in English and Spanish. A LILEC 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 LILEC 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 LILEC's web site, by calling a toll-free telephone number, or in other written materials such as brochures which the LILEC shall provide upon request; and

(4) a brief description of LITAP and a toll-free number the consumer can call to obtain further information about LITAP.

165. The CWA comments that "[t]he Commission appropriately proposes to continue Part A of the existing rules but for reasons that are not readily apparent to CWA, the Commission does not propose to continue part B of the rules." The CWA references section 17.11.25.14 NMAC, INFORMATION REQUIRED SEMI-ANNUALLY, from the now

inoperative “Consumer Protection Standards Applicable to Mid-Size Carriers.” 17.11.25

NMAC. Subsection B of that section reads:

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.

166. The CWA argues that “protection against the disclosure of consumers’ information is important.” The CWA further argues that “[e]ven better than continuing the existing rule (which places the burden on consumers to *opt out* of such disclosure)” would be a rule requiring a voluntary customer *opt in* for disclosure. However, the CWA does not provide proposed language for such a rule.

167. In response, Staff, oddly, characterizes 17.11.25.14 NMAC as a rule section “which required a carrier to semi-annually notify the customer of the use of customer information, including their calling patterns *should a court of law determine that NMAC 17.11.25.15 is invalid.*” Staff concludes, “This is a legal question on which Staff currently takes no position. Staff’s position is baffling for two reasons: (1) Staff drafted the Proposed CP Rule, presumably making the decision to leave out the provisions at issue, and (2) Staff does not explain on what basis a court might determine that 17.11.25.15 is invalid.

168. The Commission rejects the CWA’s proposed revision.

17.11.25.16 BILLING DISPUTES AND ERRORS , GENERAL REFUNDS AND BILL CREDITS

169. CenturyLink proposes the following revisions:

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

B. Whenever the billing for service has not been determined accurately because of a LILEC's omission or negligence, the LILEC shall correct the error, and:

(1) notify customers that an adjustment has been made;
(2) explain the reasons for the adjustment;
(3) offer and enter into reasonable payment arrangements in accordance with the following criteria:

(a) whenever a LILEC has overbilled a customer for service and the customer has paid the overbilled amount, the LILEC shall credit the total overbilled amount for a maximum of twenty-four months prior to the discovery of the error within a reasonable time, but in no event later than the second bill after the carrier becomes aware of the error;

(b) whenever a LILEC has underbilled a customer for service, the LILEC may add the underbilled amount for a maximum of six months' underbilling to the customer's next regular bill, unless the amount exceeds the customer's average bill for the preceding six months, in which case the customer may elect to make payments, without interest, over a time period equal to the period over which the errors were accumulated;

(4) upon request, send the customer written verification of the payment arrangements agreed to by the customer and the carrier; a LILEC may provide written verification electronically if the customer agrees.

170. With regard to subsection B, CenturyLink argues that it “[s]eems like the rule should require that the error should be corrected.” With regard to subsection B(3)(a), CenturyLink argues that “[t]here should be a time limit for billing disputes and errors, and an incentive for consumers to bring these disputes to CenturyLink QC’s attention timely.” With regard to subsection B(3)(b), CenturyLink argues that “[t]here should be a time limit for billing disputes and errors, and the incentive for addressing such disputes timely should be more for CenturyLink than for consumers.”

171. Staff concurs with the first of the above proposed revisions. However, Staff opposes the other two proposed revisions. With regard to the proposed revision to subsection B(3)(a), Staff states that it is its “understanding that the statute of limitations for enforcing the credit of any customer over-billing may be a matter of legal controversy, and knows of no specific statute that would specifically control the timeline for the payment for overbilling of telecommunications services.” With regard to the proposed revision to subsection B(3)(b), “The same holds true for collection of under-billed amounts from the customer.” Staff goes on to state that “[t]elecommunications services are billed under tariffs filed with the Commission, and the rates, terms and conditions of service are controlled by those tariffs.”

172. Staff’s response is unhelpful with regard to the proposed revisions to subsections B(3)(a) and (b). CenturyLink’s proposed revisions appear to be partially based upon the Commission’s provisions for bill adjustments with regard to electric utilities. In 17.9.560.12.E(8) NMAC, the Commission has limited refunding for electric utility overbilling of residential customers to twelve months and has limited electric utility back-billing of underbilled amounts to residential customers to six months. With regard to refunds, CenturyLink’s proposal is more generous than the Commission’s rule for electric utilities. With regard to back-billing, CenturyLink’s proposal is the same as the Commission’s rule for electric utilities.

173. The Commission adopts CenturyLink’s proposed revisions.

17.11.25.17 DISCONTINUANCE OR INTERRUPTION OF SERVICE

174. CenturyLink proposes the following revisions:

A. Discontinuance without prior notice. A LILEC may discontinue basic local exchange service to a customer without prior notice in the event of:

- (1) a condition determined by the LILEC to be hazardous;

(2) a customer's use of equipment in such manner as to adversely affect the LILEC's service to others;

(3) a customer's tampering with, or negligently or intentionally damaging or destroying equipment furnished and owned by the LILEC;

~~(4) fraud or deceit on the customer's part; or~~

~~(5) unauthorized use of service provided by the LILEC.~~

B. Discontinuance with prior notice. Pursuant to ~~17.11.16.18~~ and ~~17.11.16.19~~ NMAC, a LILEC may discontinue basic local exchange service to a customer with prior notice:

(1) for nonpayment of a delinquent account for basic local exchange service; or

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

C. Temporary interruption without notice. A LILEC 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.

175. CenturyLink argues that, with regard to the proposed subsection A(4), CenturyLink "should have the right to terminate service obtained or continued by fraud without notice."

176. Staff objects to the proposed revision to subsection A(4). Staff argues that, "[l]egally, fraud has a definite meaning under the law in New Mexico." Staff opposes the integration of the term "fraud" into the subsection "unless the fraud is proven against the customer by the company in a court of law." Moreover, according to Staff, "to discontinue customer service due to some interpretation on the company's part as to a customer's 'deceit' opens the door for the company to discontinue service for potentially frivolous reasons." Staff thus opposes the integration of the term "deceit" into the subsection.

177. The Commission agrees with Staff and rejects the proposed revision.

178. With regard to the proposed revisions to subsection B, CenturyLink simply recommends that the Commission "[f]ix references." No other participant commented upon this.

The Commission adopts the following revisions: the references to “17.11.16.18 and 17.11.16.19 NMAC” are changed to “17.11.25.18 and 17.11.25.19 NMAC.”

17.11.25.18.B PROHIBITIONS ON DISCONTINUANCE OF SERVICE (for nonpayment . . .)

179. CenturyLink proposes the following revision:

PROHIBITIONS ON DISCONTINUANCE OF SERVICE: A LILEC shall not discontinue basic local exchange service:

...

B. for nonpayment of anythe disputed portion of a bill . . .

180. CenturyLink argues that the “[i]ndefinite article [is] more clear in this instance.”

Staff does not oppose the proposed revision. The Commission adopts the proposed revision.

17.11.25.19 REQUIREMENTS PRIOR TO DISCONTINUANCE OF SERVICE

181. CenturyLink proposes the following revisions:

A. 15 day notice. If prior notice is required, aAt least 15 days before a LILEC discontinues basic local exchange service to a customer, the LILEC shall mail written notice to the customer stating its intent to discontinue service and setting forth the customer's rights regarding discontinuance of service. The notice shall be in English and Spanish, shall be dated, and shall be in simple, nontechnical language. The notice shall be sent by U.S. Mail, postage prepaid, to the last address for the customer known to the LILEC. A fifteen-day notice of discontinuance shall contain

...

(8) for residential customers, blank copies or website addresses of the medical certification form prescribed by the commission in 17.11.16.33 NMAC and the financial certification form prescribed by the commission in 17.11.16.34 NMAC, or substantially similar forms; these forms include an agreement to enter into a payment plan with the LILEC;

...

B. Hours when service may be discontinued. A LILEC may discontinue service to a residential customer Monday through Thursday during the hours from 8:00 a.m. to two (2) hours before the LILEC's business office regularly closes. A LILEC may not discontinue service less than twenty-four (24) hours prior to a holiday or weekend unless the LILEC 's business offices are ~~is~~ open or the LILEC's website is available for receipt of payment of past due

charges and LILEC personnel are available to restore service during the holiday or weekend once payment is received.

182. With regard to the proposed revision to subsection A, CenturyLink states that it would “[c]larif[y] that notice requirements only apply when notice is required.” Staff does not oppose the proposed revision “[s]ince the rule allows for conditions whereby a LILEC may discontinue customer service prior to providing notice”

183. The Commission adopts the proposed revision.

184. With regard to the proposed revision to subsection A(8), CenturyLink recommends to “[u]se technology and minimize paper and postage expense.” Staff does not object to the proposed revision.

185. The Commission adopts the proposed revision.

186. With regard to the proposed revision to subsection B, CenturyLink does not provide an additional comment, but the proposed revision seems to follow from the proposed revision to subsection A(8). Staff objects to the proposed revision. Staff is concerned about “those customers that do not have computer access,” as the availability of a website “will not help them.”

187. The Commission agrees with Staff and rejects the proposed revision.

17.11.25.20 PAYMENT PLANS

188. CenturyLink proposes the following revisions:

(1) A LILEC shall reasonably attempt to arrange a plan for the payment of past due carrier charges when a residential consumer who has not been chronically delinquent indicates an inability to pay the charges. The LILEC shall not discontinue service to the residential consumer while a payment plan is being negotiated. The LILEC 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 LILEC shall provide a procedure for reviewing residential consumer allegations that a proposed payment plan is unreasonable, that a LILEC charge is not due and owing, or that it has not violated an existing payment plan. A LILEC shall not discontinue service until the review is completed.~~

189. CenturyLink argues that the requirement in subsection (2) is “[e]xcessively burdensome.” Staff objects to the proposed revisions. With regard to subsection (1), Staff contends that, “[w]hether the LILEC has ‘reasonably’ attempted to arrange a payment plan for a customer is highly subjective and in Staff’s opinion, adds nothing to this section of the rule.” With regard to subsection (2), Staff argues that “this is an important provision of the rule, and [Staff] does not understand why CenturyLink would not want to have a process in place to make sure that it arranges for reasonable payment plans for its customers.”

190. The Commission agrees with Staff and rejects the proposed revisions. The Commission adopts the following formatting revision: subsections (1) and (2) are relabeled A. and B.

17.11.25.21 RESTORATION OF SERVICE

191. CenturyLink proposes the following revision:

A. Restoration after payment of charges. A LILEC shall promptly restore service ~~within one business day~~ as soon as practicable 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 LILEC shall restore service to a residential consumer within 12 hours of receipt of a Medical Certification Form and a Financial Certification Form pursuant to 17.11.16.33.

192. CenturyLink did not comment upon the proposed revision. Staff objects to the proposed revision. Staff argues that the proposed revision would “leave[] the restoration of the customer’s service to the whim of the LILEC, which may be whenever they get around to the job after other priorities are fulfilled . . .” Staff argues that “there should be a definite timeline to

the restoration of service for customers who become current with their payments.” Staff adds that, “all that is needed for the majority of these customers to restore service is to turn it up remotely.”

193. The Commission agrees with Staff and rejects the proposed revision.

17.11.25.23 FORMAL COMPLAINTS (Section 63-9A-11 NMSA 1978)

194. CenturyLink proposes the following revisions:

~~A. A formal complaint submitted by an interested party stating any formal act or omission by a LILEC for the provision of telecommunications services alleged to be in violation of any provision of the New Mexico Telecommunications Act or any order or rule of the commission issued pursuant to that act must adhere to this section of 17.11.X.~~

~~B. Upon filing of the formal complaint, the commission shall set the time and place of the hearing, if a hearing is required, and at least ten day’s notice of the hearing shall be given to the party complained of. Service of the notice of hearing shall be made in any manner given actual notice.~~

~~C. All matters upon which complaint may be founded may be joined in one hearing and a complaint is not defective for misjoinder or nonjoinder of parties or causes, either before the commission or on review by the courts. The persons the commission allows to intervene shall be joined and heard, along with the complainant and the party complained of.~~

~~D. The burden shall be on the party complaining to show a violation of a provision of the New Mexico Telecommunications Act or an order or rule of the commission issued pursuant to the act.~~

~~E. After conclusion of the hearing, the commission shall make and file an order containing its findings of fact and decision. A copy of the order shall be served upon the party complained of or that party’s attorney.~~

~~G. Conduct of the hearings and rendering of decisions shall be governed by the rules of practice and procedure promulgated by the commission.~~

195. CenturyLink argues that these provisions are “redundant to the Commission’s rules of procedure, and therefore either unnecessary or potentially confusing.” Staff objects to the proposed revisions. Staff argues that “CenturyLink QC completely ignores the procedure and remedies set out in the Commission’s procedural rules (1.2.2.1 NMAC *et seq.*) which should be reconciled with the statutory procedure set out in SB 53.” Staff contends that “[t]he only

realistic and fair reading of the complaint procedure set out in SB 53, as read in conjunction with the complaint provisions in the Commission's procedural rule, would be to limit the SB 53 procedure to formal complaints, and not to informal complaints." Staff adds, "Otherwise the ability of a customer to complain to the Commission's consumer division would be severely restricted, if not eliminated completely."

196. The Commission accepts the proposed revisions, but not for the reasons given by CenturyLink. Section 63-9A-11 of the Act lays out specific procedural requirements for complaints alleging violation(s) of the Act, which are reproduced in this section of the Proposed CP Rule. There is no reason to reproduce particular sections of the Act in the rule.

17.11.25.25 TROUBLE ISOLATION CHARGE PROHIBITED

197. CenturyLink proposes the following revision:

~~**TROUBLE ISOLATION CHARGE PROHIBITED:** If a customer reports trouble on a line, a LILEC shall, without charge to the customer and by use of whatever means necessary, determine whether the trouble is on the LILEC or customer side of the network interface.~~

198. CenturyLink argues that "[t]his prohibition is unique to CenturyLink QC , and even among CenturyLink QC states, is unique to New Mexico." CenturyLink further argues that "[i]t is unfair to require CenturyLink to incur costs outside its network to determine the source of troubles without compensation." CenturyLink adds that it "understands its responsibility to investigate and determine troubles on its side of the network interface."

199. The CWA supports the Commission's inclusion of this section, commenting that the Commission "appropriately retains the rule that prevents a carrier from charging a consumer when it determines whether a consumer-reported trouble is on the carrier's or consumer's side of the network interface."

200. The Commission agrees with CenturyLink and adopts the proposed revision.

Final General Findings

201. The Commission finds that the Proposed QS Rule and the Proposed CP Rule, with the revisions adopted and accepted above, should be adopted.

202. The Commission finds that 17.11.24 NMAC, “Quality of Service Standards Applicable to Mid-Size Carriers,” should be repealed and replaced with the revised Proposed QS Rule, attached hereto as **Exhibit A**. The Commission further finds that 17.11.24 NMAC should be re-titled “Quality of Service Standards Applicable to Large Incumbent Local Exchange Carriers.”

203. The Commission finds that 17.11.25 NMAC, “Consumer Protection Standards Applicable to Mid-Size Carriers,” should be repealed and replaced with the revised Proposed CP Rule, attached hereto as **Exhibit B**. The Commission further finds that 17.11.25 NMAC should be re-titled “Consumer Protection Standards Applicable to Large Incumbent Local Exchange Carriers.”

204. The Commission rejects CenturyLink’s contention that 17.11.16 NMAC, “Consumer Protection,” and 17.11.22 NMAC “Quality of Service,” must be repealed “so they do not conflict with the rules adopted in this proceeding.” The titles and scope of application of the rules adopted in this proceeding clearly indicate that they are specifically applicable to large incumbent local exchange carriers, as opposed to the more general applicability of 17.11.16 NMAC and 17.11.22 NMAC. This is similar to the situation that applied with regard to CenturyLink when it was classified as a “mid-size carrier,” at which time the more specific titles and scope of application of 17.11.24 NMAC and 17.11.25 NMAC clearly indicated that they

were specifically applicable to a mid-size carrier such as CenturyLink, as opposed to the more general applicability of 17.11.16 NMAC and 17.11.22 NMAC. The more specific rule controls over the more general rule. *See Lopez v. Barreras*, 77 N.M. 52, 54 (1966)

IT IS THEREFORE ORDERED:

A. 17.11.24 NMAC, “Quality of Service Standards Applicable to Mid-Size Carriers,” is hereby repealed and replaced with the rule attached hereto as Exhibit A. 17.11.24 NMAC is hereby re-titled “Quality of Service Standards Applicable to Large Incumbent Local Exchange Carriers.”

B. 17.11.25 NMAC, “Consumer Protection Standards Applicable to Mid-Size Carriers,” is hereby repealed and replaced with the rule attached hereto as Exhibit B. 17.11.25 NMAC is hereby re-titled “Consumer Protection Standards Applicable to Large Incumbent Local Exchange Carriers.”

C. The new rules shall be filed and published at the earliest opportunity in the New Mexico Register, as required by the State Rules Act, NMSA 1978, Sections 14-4-1 to -11 (2017). This Order and the new rules shall also be provided to the public in accordance with the State Rules Act.

D. The Commission’s Office of General Counsel is authorized to make non-substantive formatting and proofreading changes to Exhibits A and B, as necessary, prior to publication.

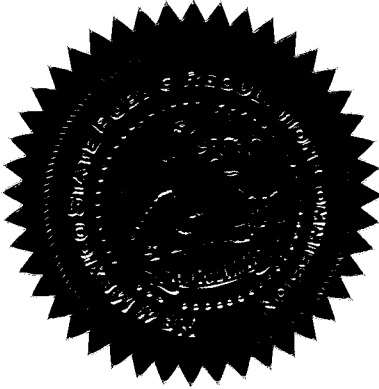
E. Any issues concerning the Proposed QS Rule or the Proposed CP Rule raised in this matter that are not expressly addressed in this Order are hereby disposed of consistent with the terms of this Order.

F. Copies of this Order, including the exhibits hereto, shall be emailed to all persons on the attached Certificate of Service if their email addresses are known, and if not known, mailed to such persons via regular mail.

G. This Order is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 30th day
of October 2019.

NEW MEXICO PUBLIC REGULATION COMMISSION



Cynthia B. Hall

CYNTHIA HALL, COMMISSIONER

NO

JEFFERSON L. BYRD, COMMISSIONER

Valerie Espinoza

VALERIE ESPINOZA, VICE-CHAIR

Theresa Becenti-Aguilar

THERESA BECENTI-AGUILAR, CHAIR

[Signature]

STEPHEN FISCHMANN, COMMISSIONER

EXHIBIT A to Order Adopting Quality of Service and Consumer Protection Rules for Large Incumbent Local Exchange Carriers (Adopted Quality of Service Rule)

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 11 TELECOMMUNICATIONS
PART 24 QUALITY OF SERVICE STANDARDS APPLICABLE TO LARGE
INCUMBENT LOCAL EXCHANGE CARRIERS

17.11.24.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[NMAC, X-X-XX]

17.11.24.2 SCOPE: This rule applies to all large incumbent local exchange carriers ("LILECs") authorized by the commission to provide retail telecommunications services in New Mexico.
[NMAC, X-X-XX]

17.11.24.3 STATUTORY AUTHORITY: Sections 8-8-4, 8-8-15, and 63-9A-5B NMSA 1978.

17.11.24.4 DURATION: Permanent.
[NMAC, X-X-XX]

17.11.24.5 EFFECTIVE DATE: November 26, 2019 unless a later date is cited at the end of a section.
[NMAC, X-X-XX]

17.11.24.6 OBJECTIVE: The purpose of this rule is to establish standards, procedures, and reporting requirements to ensure that large incumbent local exchange carriers ("LILECs") provide telecommunications services to retail customers at an adequate quality of service level and in a manner consistent with the promotion of universal service.
[NMAC, X-X-XX]

17.11.24.7 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. 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;

C. circumstances beyond a LILEC's control means:

- (1) failure to obtain necessary rights-of-way or permits despite the filing of timely applications;
- (2) extraordinary weather and other acts of God or force majeure events; or
- (3) supplier issues, vendor issues, and work stoppages;

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

E. designed services means the provisioning of regulated circuits requiring treatment, equipment, or engineering design purchased from a LILEC'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;

F. designed services held order means an order for designed services that is not fulfilled within the time frames specified in 17.11.24.13 NMAC;

G. 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;

H. 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 subscriber's phone equipment and is the switch that actually delivers dial tone to the subscriber;

I. held order means an order that is not completed within the time frames described in 17.11.24.12 NMAC;

EXHIBIT A to Order Adopting Quality of Service and Consumer Protection Rules for Large Incumbent Local Exchange Carriers (Adopted Quality of Service Rule)

J. 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;

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

L. installation commitment means a date pledged by a LILEC to provide basic local exchange service or designed services to a customer;

M. large incumbent local exchange carrier (LILEC) means an ILEC with 50,000 or more access lines within the state regulated pursuant to NMSA 1978 Section 63-9A of the Telecommunications Act;

N. non-basic services mean retail telecommunications services that are not a basic service, a local exchange service or a wholesale service governed by an interconnection agreement;

O. out-of-service trouble report is a report from a customer of an inability to receive or place calls on an access line due to lack of dial tone or severe noise that prevents effective communication;

P. repeat trouble report is a network trouble report on an access line within 30 days of a closed trouble report concerning the same problem on the same line;

Q. trouble report means notification of trouble or perceived trouble by a customer, third party, or employee acting on behalf of a customer to a large incumbent local exchange carrier's repair office, including trouble reported on the access lines of the large incumbent local exchange carrier's retail customers, but not including troubles associated with a customer's unfamiliarity with new features or customer premises equipment, or extraordinary or abnormal conditions of operation;

R. 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.
[NMAC, X-X-XX]

17.11.24.8 REPORTING REQUIREMENTS FOR LILECs : Unless otherwise specified, a LILEC shall provide data both by wire center listed alphabetically by name, and on a statewide average basis. A LILEC shall submit all reports to the commission in printed and electronic spreadsheet format. A LILEC shall file separate reports for non-designed and designed services for the categories specified in subsections A through F. A LILEC shall file reports on an annual basis, but shall compile data on a monthly basis. Reports shall be filed with the commission within 30 days of the period covered by the report.

A. Trouble reports. A LILEC 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 LILEC 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. A LILEC 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. A LILEC shall report the percentage of out-of-service and all other trouble reports cleared by each wire center within 24 hours.

D. Repeat trouble report rate. A LILEC 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. A LILEC shall calculate and report by wire center the percentage of orders for primary local exchange lines installed within the time frames established in 17.11.24.12 NMAC, excluding installations not completed due to circumstances beyond the reasonable control of the LILEC or for which a waiver or variance has been granted.

F. Average repair interval. A LILEC shall report, by wire center, the average interval for repairing service.

G. Held orders.

(1) Non-designed services. A LILEC 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

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the commission, provide an explanation for the level of held orders in any particular category. For primary local exchange lines, a LILEC 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 for which waiver petitions are pending or have been granted; and
- (g) orders cancelled by the customer.

(2) **Designed services.** A LILEC 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 for which waiver petitions are pending or have been granted; and
- (c) orders cancelled by the customer.

H. Business office and repair office answer time. A LILEC shall report separately for its business office and its repair office the percentage of calls answered within the time frames specified in 17.11.24.17 NMAC.

I. Carrier profile. No later than March 1 of each year, LILECs 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.

[NMAC, X-X-XX]

17.11.24.9 OUTAGES:

A LILEC shall provide to the commission's consumer relations division all of the notifications and reports that it provides to the Federal Communications Commission ("FCC") pursuant to 47 C.F.R. 4, Disruptions to Communications, for its operations in New Mexico as a "wireline communications provider" as defined in 47 C.F.R. 4.3, on the same timeframes as they are provided to the FCC. Carriers may redact from those notifications and reports to the Commission any information concerning their operations outside of New Mexico.

[NMAC, X-X-XX]

17.11.24.10 PROVISION OF SERVICE DURING MAINTENANCE OR EMERGENCIES:

A. Emergency procedures. Each LILEC shall establish, and instruct its employees regarding procedures for preventing and mitigating interruption to or impairment of telecommunications service in emergencies, including but not limited to those resulting from power failures, sudden and prolonged increases in traffic, illness of operators, or force majeure. LILECs shall file written plans detailing their emergency procedures with the telecommunications bureau of the commission. Any changes to the plan shall be filed with the telecommunications bureau of the commission within 30 days of the change.

B. Reserve power requirements. LILECs shall maintain in each local wire center, toll switching office, and tandem switching office a minimum of four 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 hours or the time limit of the available battery reserve for wire centers serving fewer than 10,000 lines.

C. Maintenance scheduling. LILECs shall schedule maintenance requiring extended service interruptions when it will cause minimal inconvenience to customers. To the extent possible, LILECs shall notify customers in advance of extended service interruptions. LILECs 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 hours

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between the hours of 8:00 a.m. to 10:00 p.m. If a LILEC 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 LILEC shall develop a contingency plan to prevent and 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 such occurrences as well as the actions and systems available to minimize the extent of any resulting service interruptions. Each LILEC shall file the plan with the telecommunications bureau of the commission. Any changes to the plan shall be filed with the telecommunications bureau within 30 days of the change.
[NMAC, X-X-XX]

17.11.24.11 ACCESS TO AND AUDIT OF DATA: Unless otherwise authorized by the commission, a LILEC shall make all records required by this rule available to the commission, staff, or its authorized representatives at any time upon reasonable notice. A LILEC shall make customer proprietary network information available to the commission to the extent allowed by law. A LILEC shall retain records of reports, measurements, summaries, and backup information for at least two years. The commission or staff may periodically audit a LILEC's quality of service data.
[NMAC, X-X-XX]

17.11.24.12 INSTALLATION OF BASIC LOCAL EXCHANGE SERVICE:

A. Order tracking. At the time of each service order, a LILEC 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 a LILEC receives an application for installation of a primary local exchange line for a premises that is within 1000 feet of a distribution terminal, the LILEC shall provision service within five business days of receipt of the service request, or by such later date as the customer may request.

(2) When LILEC cannot fill an order for a primary local exchange line within ten 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 business days of the date the service order is received by the LILEC. The LILEC shall promptly notify the customer of any changes in the expected installation date.

C. Premises 1000 feet or more from distribution terminal. Whenever a LILEC 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 LILEC shall provision service within 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 LILEC.

D. Line extension policy. Each LILEC shall file its line extension policy for commission review and approval and shall file any subsequent material changes to the policy for commission review and approval in accordance with commission procedures for tariff changes.
[NMAC, X-X-XX]

17.11.24.13 INSTALLATION OF DESIGNED SERVICES:

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

B. Held order standard. An LILEC shall complete 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 business days.

D. Installation interval – new facilities required. Where new facilities are needed to provide designed service, the LILEC shall install the service within 45 calendar days, unless the customer requests a later date.

(1) When the delay is caused by circumstances beyond the LILEC's reasonable control and the commission has granted an exemption or variance pursuant to 17.11.24.18 NMAC, the period of delay shall be

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added to the time period allowed for installation of the service.

(2) A LILEC shall report any case in which it claims the delay is caused by circumstances beyond the reasonable control of the LILEC to the affected customer who shall have the right to challenge the exception.
[NMAC, X-X-XX]

17.11.24.14 DIRECTORY ASSISTANCE AND INTERCEPT:

A. A LILEC shall list basic local exchange service customers (except those customers requesting otherwise) in the directory assistance database within 24 hours of service connection, except during times of regular maintenance, in which case the listing shall occur within 48 hours of service connection.

B. If a LILEC makes an error in the listed number or name of any customer, then until a new directory is published, the LILEC 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 a LILEC makes an error in the number, name or address of any listing of any customer, the LILEC shall place the customer's correct name, address and telephone number in the files of the directory assistance and intercept operators within 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 LILEC shall provide intercept service for all calls to the former number for the lesser of 60 days or until a new directory is issued. If the change is made at the initiative of the LILEC, the LILEC shall provide intercept service for the former number at no charge to the customer for the greater of 60 days or the remaining life of the current directory. The LILEC shall provide the correct number to its information operator within 24 hours of the number change (except during times of regular maintenance, in which case the listing shall occur within 48 hours of service connection) or send it to the carrier providing information operator service within 24 hours if the local exchange carrier does not provide its own service. The LILEC's intercept recording shall state how the caller can obtain the new number.

[NMAC, X-X-XX]

17.11.24.15 NETWORK CALL COMPLETION REQUIREMENTS FOR DIRECT DIALED CALLS:

A. A LILEC 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 seconds for 98 percent of call attempts on the switched network;
- (2) correct termination of 98 percent of properly dialed intraoffice or interoffice calls within an extended service area; and
- (3) correct termination of 98 percent of properly dialed intraLATA calls when the call is routed entirely over the network of the LILEC.

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 98 percent of properly dialed intrastate toll calls are correctly terminated.

C. A LILEC 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 LILEC 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 LILEC's intercept service.

[NMAC, X-X-XX]

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17.11.24.16 QUALITY OF SERVICE STANDARDS FOR NON-DESIGNED SERVICES:

A. Installation of primary local exchange lines. A LILEC shall complete at least 96 percent of all requests for installation of primary local exchange lines within the time frames established 17.11.24.12 NMAC.

B. Trouble reports.

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

(2) A LILEC's repeat trouble report rate shall not exceed 12 percent of total monthly trouble reports, on a wire center basis.

C. Out-of-service clearances.

(1) A LILEC shall clear 85 percent of out-of-service trouble reports in each month within 24 hours, on a wire center basis.

(2) The monthly average repair interval in a wire center shall not exceed 20 hours.
[NMAC, X-X-XX]

17.11.24.17 TIMELY RESPONSE BY CUSTOMER SERVICE REPRESENTATIVES:

A. Standards. A LILEC's business and repair offices shall answer calls within an average of 35 seconds. If a carrier uses an automated response system, the system shall transfer calls to a customer service representative within an average of 35 seconds of the customer's selection to speak with a customer service representative or within 40 seconds if the customer does not make a selection. A LILEC shall ensure that no more than one percent of calls to its business offices reach a busy signal and that no more than one percent of calls to its repair offices reach a busy signal.

B. Reports. A LILEC shall file an exception report within 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 LILEC, and any known results of that remedial action.

[NMAC, X-X-XX]

17.11.24.18 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. 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.

[NMAC, X-X-XX]

17.11.24.19 ENFORCEMENT: Enforcement of service quality standards under 17.11.24 is provided by the commission's fining authority set forth in Section 63-7-23 NMSA 1978 and the authority to seek an injunction set forth in Section 63-9-9 NMSA 1978.

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{NMAC, X-X-XX}

EXHIBIT B to Order Adopting Quality of Service and Consumer Protection Rules for Large Incumbent Local Exchange Carriers (Adopted Consumer Protection Rule)

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 11 TELECOMMUNICATIONS
PART 25 CONSUMER PROTECTION STANDARDS APPLICABLE TO LARGE INCUMBENT LOCAL EXCHANGE CARRIERS

17.11.25.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[NMAC, X-X-XX]

17.11.25.2 SCOPE: This rule applies to all large incumbent local exchange carriers ("LILECs") authorized by the commission to provide retail telecommunications services in New Mexico.
[NMAC, X-X-XX]

17.11.25.3 STATUTORY AUTHORITY: Sections 8-8-4, 8-8-15, and 63-9A-5B NMSA 1978.
[NMAC, X-X-XX]

17.11.25.4 DURATION: Permanent.
[NMAC, X-X-XX]

17.11.25.5 EFFECTIVE DATE: November 26, 2019, unless a later date is cited at the end of a section.
[NMAC, X-X-XX]

17.11.25.6 OBJECTIVE: The purpose of this rule is for the establishment of consumer protection standards applicable to large incumbent local exchange carriers ("LILECs").
[NMAC, X-X-XX]

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 LEC'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. billing agent means any person that submits bills for telecommunications services to a customer on behalf of a carrier;

D. 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, and includes wireless carriers;

E. chronically delinquent means the status of a residential customer who during the prior 12 months has been disconnected by a carrier for nonpayment or who on three or more occasions during the prior twelve months has not paid a bill by the date a subsequent bill is rendered;

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

G. complaint means an oral or written expression of dissatisfaction with a carrier's charges or services (including a request for repair) made to a carrier by or on behalf of a customer;

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

I. delinquent means the status of a bill rendered to a residential customer for telecommunications service which remains unpaid after the due date of the bill;

J. discontinuance of service means the intentional cessation of basic local exchange service by a LEC not voluntarily requested by a customer;

K. discretionary service means voice mail, caller ID, caller name ID, call waiting, three-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;

L. incumbent local exchange carrier (ILEC) means 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; a carrier will also be

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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);

M. large incumbent local exchange carrier (LILEC) means an ILEC with more than 50,000 access lines regulated pursuant to Section 63-9A NMSA 1978 of the Telecommunications Act;

N. medical professional means a licensed physician, physician's assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner;

O. network interface means the point at which the network side of telecommunications service meets the customer side;

P. primary local exchange line means the first exchange access line installed by any 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;

Q. telecommunications service has the meaning given to the term "public telecommunications service" in Section 63-9A-3 NMSA 1978;

R. 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;
[NMAC, X-X-XX]

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

A. A LILEC may not disconnect, or threaten to disconnect, either directly or through the use of ambiguous, deceptive, or misleading language, a customer's basic local exchange service for failure to pay charges for toll or discretionary services.

B. A LILEC shall offer toll blocking upon a customer's request.

C. A LILEC may impose involuntary toll blocking on a customer's primary local exchange line for failure to pay charges for toll service. However, the toll blocking must be provided without charge and the LILEC must remove the toll blocking when the bill is paid.

D. A LILEC shall credit customer's partial payments for current bills or past due amounts first to basic local exchange service, unless the customer instructs the LILEC to allocate the payment in a different manner. A LILEC shall provide to the customer or the consumer relations division of the commission upon request of either written verification of oral instructions given by a customer.
[NMAC, X-X-XX]

17.11.25.9 ACCESS TO AND AUDIT OF DATA: Unless otherwise authorized by the commission, a carrier shall make all records required by this rule available to the commission, staff with the consent of the commission, or its authorized representatives at any time upon reasonable notice. A LILEC shall make customer proprietary network information available to the commission to the extent allowed by law. A carrier shall retain all records required by this rule for at least two years. The commission, or staff with the consent of the commission, may periodically audit the timeliness and accuracy of carriers' customer service and repair records.
[NMAC, X-X-XX]

17.11.25.10 CUSTOMER COMPLAINT TRACKING:

A. A LILEC shall maintain a record of all oral and written complaints, including informally resolved billing disputes, made by or on behalf of customers, which shall contain:

(1) the date the complaint was lodged;
(2) the class of customer (residential or business);
(3) the category of the complaint (based on the consumer relations division's list of complaint categories);

(4) the region within the state (by wire center or exchange);

(5) how the complaint was resolved; and

(6) the date of resolution.

B. A LILEC shall not retaliate against a customer for any complaint made by the customer to the commission or any other person.

C. Upon request of the commission or staff, and for a specified time period not to exceed two years, a LILEC shall compile and submit to the commission reports that state the total number of complaints recorded

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pursuant to Subsection A of this section and the number of such complaints categorized by the:

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

D. A LILEC shall cooperate with the commission, the consumer relations division, and staff in resolving complaints.
[NMAC, X-X-XX]

17.11.25.11 ACCESS TO SERVICE AND RATE INFORMATION:

A. A LILEC shall maintain comprehensive, understandable, accurate, and up-to-date service and rate information. A LILEC:

- (1) shall provide a toll-free telephone number by which customers can access such information and shall, upon request, mail written information to a customer;
- (2) shall provide such information to disabled customers in a form accessible to them;
- (3) shall provide such information in English and Spanish as requested by the customer; and
- (4) may provide such information electronically (e.g., by email or text message) if a customer agrees in writing.

B. A LILEC shall provide:

- (1) information regarding the rates for direct dialed calls;
- (2) information regarding all relevant charges and rates for calls using a credit card or calling card;
- (3) details on all advance payments or termination procedures and charges that may apply;
- (4) information regarding where and how a customer may subscribe to the carrier's services;
- (5) an explanation of charges on customers' bills;
- (6) information regarding proposed changes in services and rates;
- (7) information regarding the availability of service; and
- (8) information describing the commission's procedures for resolving slamming and cramming disputes, as set forth in 17.13.8 NMAC, Slamming and Cramming Protection.

C. A LILEC shall also provide information regarding:

- (1) the timing of installation of primary local exchange lines or additional lines; and
- (2) rates for repair work done on the customer's side of the network interface.

D. A LILEC shall provide notice of a rate or fee increase or a new charge for an existing service prior to the implementation of the rate increase or new charge. The notice shall be provided in a bill, a bill insert, or by separate mailing, in a form and manner that clearly identifies every rate or fee increase or new charge as such. A carrier shall provide notice of a rate decrease by no later than the next bill following the billing cycle in which the rate decrease was implemented. This notice requirement shall not apply to increases or decreases in taxes or other government-related fees.

E. When a customer initially subscribes to basic local exchange service, a LILEC shall inform the customer, in English or Spanish, as requested by the customer:

(1) that a low income telephone assistance program (LITAP) is available to qualifying residential customers and shall ask if the customer would like to receive further information about the program. If the customer answers affirmatively, the LEC shall inform the customer:

(a) that applications are available at its billing offices or that the LILEC will mail an application to the customer;

(b) that the customer must submit to the LILEC a completed application and proof that the customer meets the eligibility requirements for one or more need-based assistance programs administered by the human services department;

(c) if the customer does not have such proof, the LILEC shall advise the customer to contact his or her local human services department income support division office or call the HSD customer help desk at its toll free telephone number for information on how to obtain proof of eligibility; and

(d) the contact information for the Universal Service Administrative Company, responsible for administering the FCC's Lifeline Program, including phone number, email contact, and website information; and

(e) that the customer may obtain additional assistance from the commission's consumer relations division and the LILEC shall provide the toll-free telephone number of the commission's consumer relations division.

F. The commission strongly encourages each carrier to make service and rate information accessible

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to customers on its website and at its business offices or customer service centers open to the public, where these exist.

[NMAC, X-X-XX]

17.11.25.12 FAIR MARKETING PRACTICES:

A. Any LILEC subject to the commission's jurisdiction shall, in all oral or written contacts with customers:

- (1) provide timely, courteous, and accurate information;
- (2) explain services, and switching and discontinuance of service, accurately and unambiguously;
- (3) not represent discretionary services as essential;
- (4) not engage in any unfair or deceptive trade practice, including but not limited to the unfair or deceptive trade practices and unconscionable trade practices defined in Section 57-12-2 NMSA 1978;
- (5) upon a customer-initiated inquiry about services, make a good-faith effort to identify the service that is the most economical for the customer, based on the customer's representation of his or her telecommunications requirements.

B. Upon request of the commission or staff, a LILEC shall provide its sales scripts, marketing materials, and sales and marketing practices and procedures to the commission for review. A LILEC may petition for a protective order pursuant to the commission's rules of procedure prior to providing the requested information.
[NMAC, X-X-XX]

17.11.25.13 TARIFFS AND BOUNDARY MAPS:

A. Unless specifically exempted by the commission, a LILEC shall file with the commission tariffs containing rates, charges, terms, and conditions for all intrastate services that specifically set forth:

- (1) the conditions and circumstances under which the LILEC, or entities under contract to the LILEC, will make line extensions or extensions of service to customers within the exchange area;
- (2) minimum standards for discontinuance of residential basic local exchange service;
- (3) the LILEC's deposit policy; and
- (4) charges for service connections, extensions and line mileage.

B. Each LILEC shall post tariffs on its website and make copies available for inspection by the public during regular business hours at its business offices in New Mexico.

C. Each LILEC shall file with the commission 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 LILEC 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. The map shall be to a scale and in sufficient detail to permit a person in the field to locate the exchange service area boundaries.
[NMAC, X-X-XX]

17.11.25.14 BILLS: A LILEC shall provide easily readable, readily understandable bills.

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

B. Nonrecurring and recurring charges. A LILEC's bills shall separately identify nonrecurring and recurring charges.

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

D. Right to dispute statement. A LILEC'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 LILEC's bills shall include the toll-free number of the consumer relations division of the commission.
[NMAC, X-X-XX]

17.11.25.15 INFORMATION REQUIRED SEMI-ANNUALLY:

A. Information provided in English and Spanish. A LILEC shall semi-annually provide information to consumers in English and Spanish. A LILEC need not provide all of the information at the same time and may

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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 LILEC 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 LILEC's web site, by calling a toll-free telephone number, or in other written materials such as brochures which the LILEC shall provide upon request; and

(4) a brief description of LITAP and a toll-free number the consumer can call to obtain further information about LITAP.

[NMAC, X-X-XX]

17.11.25.16 BILLING DISPUTES AND ERRORS, GENERAL REFUNDS AND BILL CREDITS:

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

B. Whenever the billing for service has not been determined accurately because of a LILEC's omission or negligence, the LILEC shall correct the error, and:

(1) notify customers that an adjustment has been made;

(2) explain the reasons for the adjustment;

(3) offer and enter into reasonable payment arrangements in accordance with the following criteria:

(a) whenever a LILEC has overbilled a customer for service and the customer has paid the overbilled amount, the LILEC shall credit the total overbilled amount for a maximum of twenty-four months prior to the discovery of the error within a reasonable time, but in no event later than the second bill after the carrier becomes aware of the error;

(b) whenever a LILEC has underbilled a customer for service, the LILEC may add the underbilled amount for a maximum of six months' underbilling to the customer's next regular bill, unless the amount exceeds the customer's average bill for the preceding six months, in which case the customer may elect to make payments, without interest, over a time period equal to the period over which the errors were accumulated;

(4) upon request, send the customer written verification of the payment arrangements agreed to by the customer and the carrier; a LILEC may provide written verification electronically if the customer agrees.

[NMAC, X-X-XX]

17.11.25.17 DISCONTINUANCE OR INTERRUPTION OF SERVICE:

A. Discontinuance without prior notice. A LILEC may discontinue basic local exchange service to a customer without prior notice in the event of:

(1) a condition determined by the LILEC to be hazardous;

(2) a customer's use of equipment in such manner as to adversely affect the LILEC's service to others;

(3) a customer's tampering with, or negligently or intentionally damaging or destroying equipment furnished and owned by the LILEC; or

(4) unauthorized use of service provided by the LILEC.

B. Discontinuance with prior notice. Pursuant to 17.11.25.18 NMAC and 17.11.25.19 NMAC, a LILEC may discontinue basic local exchange service to a customer with prior notice:

(1) for nonpayment of a delinquent account for basic local exchange service; or

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

C. Temporary interruption without notice. A LILEC may temporarily and without notice interrupt service for an operational emergency, necessary and unavoidable network maintenance, or reasons related to the

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public safety and welfare.
[NMAC, X-X-XX]

17.11.25.18 PROHIBITIONS ON DISCONTINUANCE OF SERVICE: A LILEC shall not discontinue basic local exchange service:

A. to any residence where a seriously or chronically ill person resides, or will re-establish service to such a residence, if, at least two days prior to the proposed service discontinuance date specified in the notice:

(1) the LILEC receives a medical certification, valid for 90 days, on the form prescribed by the commission in 17.11.16.33 NMAC or a substantially similar form, from a medical professional stating that discontinuance of service might endanger the customer's life or health;

(2) the LILEC receives a financial certification, valid for 90 days, on the form prescribed by the commission in 17.11.16.34 NMAC or a substantially similar form, from the customer stating that the customer does not have the financial resources to pay the charges for telecommunications services; and

(3) the residential customer enters into a payment plan with the LILEC;

B. for nonpayment of any disputed portion of a bill; or

C. for 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.

[NMAC, X-X-XX]

17.11.25.19 REQUIREMENTS PRIOR TO DISCONTINUANCE OF SERVICE:

A. **15 day notice.** If prior notice is required, at least 15 days before a LILEC discontinues basic local exchange service to a customer, the LILEC shall mail written notice to the customer stating its intent to discontinue service and setting forth the customer's rights regarding discontinuance of service. The notice shall be in English and Spanish, shall be dated, and shall be in simple, nontechnical language. The notice shall be sent by U.S. Mail, postage prepaid, to the last address for the customer known to the LILEC. A fifteen-day notice of discontinuance shall contain:

(1) the toll-free telephone number and working hours of LILEC personnel responsible for administering the procedures in this section;

(2) the amount owed and the specific date service will be discontinued unless the customer pays the amount due or makes other arrangements with the LILEC concerning payment of the charges; upon request, the LILEC shall provide information to the customer 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 basic local exchange service cannot be discontinued for failure to pay charges for toll or discretionary services;

(4) a statement that, if the customer pays the portion of the bill which the customer does not dispute, the LILEC shall review the portion of the bill which the customer does dispute;

(5) a statement that a customer may file a complaint with the consumer relations division of the commission if the customer disagrees with the LILEC's determination concerning discontinuance of service;

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

(7) for residential customers, a statement that:

(a) the LILEC will not discontinue basic local exchange service to a residence where a seriously or chronically ill person resides, or will re-establish service to such a residence, if, at least two days prior to the proposed service discontinuance date specified in the notice:

(i) the LILEC receives a medical certification, valid for 90 days, on the form prescribed by the commission in 17.11.16.33 NMAC or a substantially similar form, from a medical professional stating that discontinuance of service might endanger the customer's life or health;

(ii) the LILEC receives a financial certification, valid for 90 days, on the form prescribed by the commission in 17.11.16.34 NMAC or a substantially similar form, from the customer stating that the customer does not have the financial resources to pay the charges for telecommunications services; and

(iii) the residential customer enters into a payment plan with the LILEC;

(b) if service has been discontinued, the LILEC shall reestablish service within 12 hours after the residential customer has satisfied the requirements of sub-subparagraph i of subparagraph a through sub-subparagraph iii of subparagraph a of paragraph 6 of this subsection;

(c) the residential customer will not be relieved of the obligation to pay for services rendered if

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service is continued or reestablished under the provisions of this paragraph; and

(d) timely delivery by a residential customer to the LILEC of duly executed medical certification and financial certification forms shall be adequate to delay discontinuance of service for at least ninety (90) days and that the LILEC may, in its discretion, delay the discontinuance for a longer period;

(8) for residential customers, blank copies or website addresses of the medical certification form prescribed by the commission in 17.11.16.33 NMAC and the financial certification form prescribed by the commission in 17.11.16.34 NMAC, or substantially similar forms; these forms include an agreement to enter into a payment plan with the LILEC;

(9) for residential customers, the following statement in capital letters, "If you have difficulty paying this bill, and feel you may qualify for assistance from the low income telephone assistance program (LITAP), contact a customer service representative at [insert toll-free telephone number of the carrier's customer service department]. You may obtain an application for the low income telephone assistance program at our billing offices or we can mail an application to you. You should return the completed application and proof that you meet the eligibility requirements for one or more need-based assistance programs administered by the human services department to us at [insert name and mailing address of carrier's office]. If you do not have such proof, you should contact your local human services department income support division office or call the HSD customer help desk at its toll free telephone number for information on how to obtain proof of eligibility."

B. Hours when service may be discontinued. A LILEC may discontinue service to a residential customer Monday through Thursday during the hours from 8:00 a.m. to two hours before the LILEC's business office regularly closes. A LILEC may not discontinue service less than 24 hours prior to a holiday or weekend unless the LILEC's business office is open for receipt of payment of past due charges and LILEC personnel are available to restore service during the holiday or weekend once payment is received.
[NMAC, X-X-XX]

17.11.25.20 PAYMENT PLANS:

A. A LILEC shall attempt to arrange a plan for the payment of past due carrier charges when a residential consumer who has not been chronically delinquent indicates an inability to pay the charges. The LILEC shall not discontinue service to the residential consumer while a payment plan is being negotiated. The LILEC 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.

B. Each LILEC shall provide a procedure for reviewing residential consumer allegations that a proposed payment plan is unreasonable, that a LILEC charge is not due and owing, or that it has not violated an existing payment plan. A LILEC shall not discontinue service until the review is completed.
[NMAC, X-X-XX]

17.11.25.21 RESTORATION OF SERVICE:

A. Restoration after payment of charges. A LILEC shall promptly restore service within one business day 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 LILEC shall restore service to a residential consumer within 12 hours of receipt of a medical certification form and a financial certification form pursuant to 17.11.16.33.
[NMAC, X-X-XX]

17.11.25.22 INFORMAL COMPLAINTS

A. A LILEC shall fully and promptly investigate and respond to all complaints made directly to the LILEC by customers. The LILEC shall make a good faith attempt to resolve the complaint and shall notify the customer promptly of its proposed disposition of the complaint. Upon request, the LILEC shall send written confirmation of its proposed disposition of the complaint to the customer.

B. If a LILEC's customer representatives cannot resolve a complaint to a customer's satisfaction, the LILEC 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. Upon receipt of a complaint forwarded by the commission on behalf of a customer, a LILEC shall make a suitable investigation. A LILEC shall provide an initial response to the commission within ten business days after the LILEC receives the complaint. When the LILEC has concluded its investigation of a complaint, the LILEC shall provide a written response to the commission detailing the results of the LILEC's investigation and its

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proposed resolution. A complaint forwarded by the commission on behalf of a customer shall not be considered resolved until the consumer relations division closes the complaint.
[NMAC, X-X-XX]

17.11.25.23 PRIVACY: The commission hereby adopts by reference the federal communications commission's rules on customer proprietary network information codified at 47 CFR 64.2001-64.2009.
[NMAC, X-X-XX]

17.11.25.24 MEDICAL CERTIFICATION FORM:

MEDICAL CERTIFICATION FORM (VALID FOR 90 DAYS)

NOTE: You must complete both parts of this medical certification form and a financial certification form to continue receiving telecommunications service.

I, [insert printed name of residential customer], hereby certify that I am the person responsible for the charges for telecommunications service at [insert service address], that a seriously or chronically ill person, [insert name of seriously or chronically ill person] resides there, and that I am financially unable to pay my bill at this time. I understand that this certification does not relieve me of the responsibility to pay my bill, and that I must reapply for financial certification every 90 days. In addition, I understand that I must make arrangements for a payment plan with [insert name of LILEC] in order to continue receiving telecommunications service.

[date] [customer's telephone number] [customer's signature]

I, [insert name of medical professional] certify that I am a licensed physician, physician's assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner who holds license number [insert license number] and that on [insert date] I examined [insert name of seriously or chronically ill person] who I am informed resides at [insert service address]. Said person is seriously or chronically ill with [describe condition]. Discontinuance of telecommunications service to this residence might endanger this person's health or life during the recovery period. This certification is valid for 90 days.

[signature of medical professional] [office address and telephone number of medical professional]

[NMAC, X-X-XX]

17.11.25.25 FINANCIAL CERTIFICATION FORM:

FINANCIAL CERTIFICATION FORM (VALID FOR 90 DAYS)

NOTE: You must complete this financial certification form and a medical certification form to continue receiving telecommunications service.

FINANCIAL SELF-CERTIFICATION (VALID FOR 90 DAYS)

I, [insert printed name] hereby certify that I am the person responsible for the charges for telecommunications service at [insert service address], that a seriously or chronically ill person, [insert name of seriously or chronically ill person], resides there, and that I do not have the financial resources to pay the charges for telecommunications service.

I understand that this certificate does not relieve me of the responsibility to pay my bill, and that I must submit another Financial Certification Form every 90 days.

I understand that if I provide false information, I could be denied medical emergency telecommunications services.

[customer's signature] [date]

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[customer's social security number] [customer's telephone number] [service address]

[city] [state] [zip code]

{NMAC, X-X-XX}

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE PETITION OF)
CENTURYLINK QC TO IMPLEMENT)
SENATE BILL 53 AND TO ADOPT) Case No. 17-00186-UT
EMERGENCY RULES)**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the **Order Adopting Quality of Service and Consumer Protection Rules for Large Incumbent Local Exchange Carriers**, issued on October 30, 2019, was sent via email on October 31, 2019, to the following parties:

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Mitchell F. Brecher
Debra McGuire- Mercer
John Badal
Patricia Salazar Ives
David Lafuria
Timothy Shaffery
Jeffrey Albright
Britney Lloyd
Rohan Ranaraja
Amanda Edwards
Carla Bond
Michael Tamburino
Jean Snopkowski
Alan P. Morel
Anthony Smith
Cecile Archibeque
Dale Laman
Lourdes Vifias
Marcy Guillen
Mark Costlow
Mary Beth Cicala
Matthew Hoover
Michael Leyba
Lynn E. Mostoller
Sharma Purcell
Donna Danielle
Linda Dallaero
Mary Hope
Carol Valdez
Herve Andrieu
Jerry Nussbaum
William Cabral
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Sharon Mullin
Shawn Hanson
Sherry Boyd
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Brian Gilbert
Stanley Smith
Steven Chernoff
Tim Keefer
Alicia Armijo
KLehrman
JR Carter
Sharon Saenz
Alan P. Morel
Adriana Badal
Adriana Badal
Tim Shaffery
Kim Legant
Susan Bitter Smith
Accessline Comms. Corp
Access One, Inc.
Access Point, Inc.
ACN Coms. Services, Inc.
Affinity Network, Inc.
Airmex Communications, Inc.
Airespring, Inc.
Alltell Coms., LLC
American Telecom Systems
AmeriVision Comms. Inc.
Verizon Long Distance
Broadwing Coms., LLC.
Buehner-Fry, Inc.
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Communications Network Billing
Comtech 21, LLC
Convergia, Inc.
Custom Teleconnect, Inc.
Delcom, Inc.
Easton Telecom., LLC
Electric Lightwave, LLC
Encompass Comm., LLC
Enhanced Comms. Grp, LLC
Enhanced Comm. Newtork, Inc.
Securus Technologies, Inc.
France Telecom. Corporate Solutions LLC
Operator Service Co., LLC
OPEX Communications, Inc.
Paetec Comms./USLEC
iTel
PNG Telecom., Inc.
PTUS, Inc.
Public Com. Services, Inc.
Quantumshift Comms., Inc.
CenturyLink Comms., LLC
Reduced Rate Long Distance
Reliant Comms., Inc.
800 Response Information Services LLC
Sierra Communications, Inc.
SBC Long Distance, LLC
Sprint Coms. Co. LP
CenturyLink Public Comms.
Telecom Management, Inc.
Telmex USA, LLC
Telrite Corporation
Touchtone Comms., Inc.
TTI National, Inc.
Tularosa Coms., Inc.
inContact, dba UCN, Inc.
U.S. South Comms., Inc.
USA Digital Comms., Inc.
Value-Added Comms. Inc.
Verizon Select Services, Inc.
Voicecom Telecom., LLC
WDT World Discount Telecom.
Westel, Inc.
Wholesale Carrier Services
Leaco Rural Telephone Coop(Wireless)
Navajo Comms. Co., Inc.
Roosevelt County Rural Telephone Coop.
Valley Telephone Cooperative
Western New Mexico Tel.Co.
Valor Telecom. of Texas, LP
Spok, Inc.
Frontier Comms. Of America
DeltaCom, LLC
BCN Telecom Inc
Dallas MTA LP
Broadband Dynamics, LLC
Plateau Telecom- NM RSA2
Plateau Telecom., Inc.
Plateau Telecom., RSA 4
Plateau Telecom. Long Distance
Yucca Telecom. Systems (CLEC)
Cyber Mesa Computer Systems Inc
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Conectado, Inc.
Nationwide Long Distance Svce
American Messaging Services
Virgin Mobile USA, LLC
CCI Network Services, LLC
TerraCom, Inc.
Bandwidth.com CLEC, LLC
TerraCom, Inc.
Zayo Group, LLC
Transtelco, Inc.
Pay Tel Communications Inc.
Network Services Solutions
MJ2IP, LLC/City Hosted Solutions
Commnet Wireless, LLC
Ting, Inc.
Ready Wireless, LLC
Tanager Telecoms. NM LLC
UVNV, Inc.
MetroPCS Texas LLC
Cricket Wireless, LLC
TWC Digital Phone LLC
Digium Cloud Services, LLC
Conterra Ultra Broadband
Jive Communications, Inc.
NetFortis Acquisition Co., Inc.
S-Net Communications, Inc.
Pulsar360, Inc.
Thinking Phone Networks, Inc.
Valley Connections LLC
IDS Metrocom LLC
Metro Optical Solutions, Inc.
Stream Corns., LLC
Magna5 fka X5 OPCO LLC
MegaPath Cloud Co., LLC
Peerless Network, Inc.
Integrated Services, Inc.
West Safety Corns., Inc. (Intrado)
Windstream Southwest Long Distance, LP
Airus, Inc.
Nextiva, Inc.
DSI-ITI, LLC
TracFone Wireless, Inc.
WiMacTel, Inc.
Vonage America, Inc
Netwolves Network Services LLC
TeleQuality Corns., Inc.
Crexendo Business Solutions
Flat Wireless, LLC
Greenfly Networks Inc dba Clearfly
Communications MFG Services, Inc.
Residential Long Distance, Inc
West IP Communications
Phone.com, Inc.
Cintex Wireless Talton Communications, Inc.
Ionex Comms. North, Inc.
COMM-CORE, LLC
WaveNation, LLC
Select Communications, LLC
Bandwidth.com, Inc.
Google North America Inc. dba Project Fi by Google
Talk America Services, LLC
The People's Operator USA
Patriot Mobile, LLC
Vivint Wireless, Inc.
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NetworkIP, LLC
EarthLink Business, LLC
NobelTel, LLC
NOS Communications, Inc.
NOSY A Limited Partnership
NTS Communications, Inc.
OneLink Comm., Inc. RM
Working Assets Funding Service
XO Corns. Services, Inc.
X2Comm, Inc.
Yucca Coms. Systems L D
ANPI Business, LLC
Alltel Comms. of the SW
Holdings, Inc.
Smith Bagley/Cellular One NE AZ
PVT Wireless Limited Partnership Northern New Mexico, LP
T-Mobile West LLC
CommNet Cellular Inc.
New Mexico RSA No. 5 LP
New Mexico RSA 6-1 Partnership
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Sprint Spectrum LP (Sprint PCS)
Qwest Corporation
MCI Communications Services
MCimetro Access Trans. Services
Tularosa Basin Telephone Co.
Penasco Valley Telephone Coop.
New Cingular Wireless PCS
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PVT Networks, Inc
LaJicarita Rural Telephone Coop.
Mescalero Apache Telcom, Inc
Baca Valley Telephone Company
Centurytel of the Southwest- NM
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ENMR Telephone Coop., Inc
Leaco Rural Telephone (CLEC)
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Apptix, Inc.
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Voice Runner. Inc.
GC Pivotal, LLC
365 Wireless, LLC
Flash Wireless, LLC
Broadsoft Adaption, Inc.
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KDDI America Inc
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New Horizons Comms. Corp.
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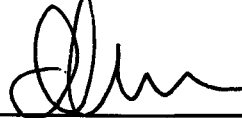
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