

This rule was filed as 17 NMAC 13.9.

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 11 TELECOMMUNICATIONS**  
**PART 9 PROCEDURES FOR INCUBENT RURAL TELECOMMUNICATIONS CARRIERS**

**17.11.9.1 ISSUING AGENCY:** New Mexico Public Regulation Commission, Utility Division.  
[1-14-00; Recompiled 12/31/01]

**17.11.9.2 SCOPE:** This rule applies to incumbent rural telecommunications carriers seeking to establish rates, terms and conditions for new services or to make changes in the rates, terms and conditions of existing services.  
[1-14-00; Recompiled 12/31/01]

**17.11.9.3 STATUTORY AUTHORITY:** NMSA 1978, Sections 8-8-4 and 63-9H-7.  
[1-14-00; Recompiled 12/31/01]

**17.11.9.4 DURATION:** Permanent.  
[1-14-00; Recompiled 12/31/01]

**17.11.9.5 EFFECTIVE DATE:** January 14, 2000, unless a later date is cited at the end of a section or paragraph.  
[1-14-00; Recompiled 12/31/01]

**17.11.9.6 OBJECTIVE:** The purpose of this rule is to implement NMSA 1978, Section 63-9H-7 by providing procedures for filing rates for new services and changes in rates for existing services, and for protesting rate increases for residential local exchange service.  
[1-14-00; Recompiled 12/31/01]

**17.11.9.7 DEFINITIONS:** The definitions contained in the Rural Telecommunications Act of New Mexico, NMSA 1978 Sections 63-9H-1 *et seq.*, and in 17 NMAC 1.2 [now 17.1.2 NMAC], Utility Division Procedures, shall apply to this rule.  
[1-14-00; Recompiled 12/31/01]

**17.11.9.8 FILINGS REGARDING CHANGES IN RATES**

**A.** An incumbent rural telecommunications carrier seeking to establish rates, terms and conditions for new retail public telecommunications services or to make changes in the rates, terms and conditions of existing retail public telecommunications services, other than increases in residential local exchange service rates, shall file with the Commission two (2) copies each of an advice notice, tariffs (including terms and conditions), and an affidavit of publication from a local newspaper in the incumbent rural telecommunications carrier's service area showing publication of the advice notice.

**B.** In addition to the requirements in 17 NMAC 13.9.8.1 [now Subsection A of 17.11.9.8 NMAC], an incumbent rural telecommunications carrier seeking reductions in rates for local exchange, vertical, and long distance service to retail end-user customers shall file with the Commission two (2) copies of an affidavit made by the responsible representative of the carrier attesting that the requirements of NMSA 1978 Section 63-9H-7(G) have been met.

**C.** An incumbent rural telecommunications carrier seeking an increase in rates for residential local exchange service shall file with the Commission:

**(1)** for prior approval, two (2) copies of its proposed form of notice to affected subscribers at least fifteen (15) days prior to mailing the form of notice to affected subscribers. If Commission staff do not approve or disapprove the proposed form of notice within five (5) business days, the form of notice shall be deemed approved. Staff approval shall not create a presumption that the Commission finds the form of notice legally sufficient;

**(2)** an original and fourteen (14) copies of an advice notice on or before the date the carrier mails the Commission staff-approved notice of proposed increases in rates to affected subscribers; and

**(3)** two (2) copies of an affidavit attesting that the carrier has mailed the Commission Staff-approved notice to all affected subscribers.

[1-14-00; Recompiled 12/31/01]

### **17.11.9.9 NOTICE TO AFFECTED SUBSCRIBERS OF PROPOSED INCREASES IN RESIDENTIAL LOCAL EXCHANGE SERVICE RATES**

**A. Written notice required.** An incumbent rural telecommunications carrier proposing an increase in residential local exchange service rates shall mail a written notice filed with the Commission and approved by the Commission Staff to all affected subscribers at least sixty (60) days prior to the effective date of the proposed rate increase. The notice may be mailed to affected subscribers with their billings or separately.

**B. Contents of notice.** In addition to the information required by NMSA 1978, Section 63-9H-7(C), the notice of proposed rate increase shall include

- (1) the existing rate, the proposed rate and the percentage increase;
- (2) the effective date of the last rate increase;
- (3) the effective date of the proposed rate increase;
- (4) a statement that the new rates will go into effect automatically and will not be considered for review and hearing by the Public Regulation Commission unless Commission staff files its own motion for a hearing and demonstrates good cause, or unless at least two and one-half percent (2.5%) of all affected subscribers file a protest with the Commission within sixty (60) days of the date notice was mailed to the affected subscribers, together with a statement of the number of subscribers constituting two and one-half percent (2.5%);

- (5) a statement that procedures for protesting the proposed rate increase are set forth in 17 NMAC 1.2 [now 17.1.2 NMAC], Utility Division Procedures, which can be obtained from, or inspected at, the main office of the incumbent rural telecommunications carrier or the offices of the Commission in Santa Fe, that forms for protests are available from either the incumbent rural telecommunications carrier or the Commission, and providing the telephone numbers and addresses of both the incumbent rural telecommunications carrier and the Commission; and

- (6) a statement that any interested person may examine the rate filings and any related exhibits and papers at the main office of the incumbent rural telecommunications carrier or at the offices of the Commission in Santa Fe.

**C. Grounds for rejection of rate filing.** Failure of an incumbent rural telecommunications carrier to provide the written notice required by NMSA 1978 Section 63-9H-7(C) and this rule to all affected subscribers at least sixty (60) days prior to the effective date of the proposed rate increase shall be grounds for rejection of the proposed rate increase

[1-14-00; Recompiled 12/31/01]

### **17.11.9.10 PROTESTS OF PROPOSED RATE INCREASES FOR RESIDENTIAL LOCAL EXCHANGE SERVICES**

**A. Required contents of protest.** Protests by affected subscribers of proposed increases in residential local exchange service rates must be made in writing to the Commission and shall be signed by each protesting subscriber. In addition to the requirements of NMSA 1978, Section 63-9H-7(E), protests shall contain:

- (1) the name of the incumbent rural telecommunications carrier whose proposed rates are being protested;

- (2) the name, mailing address, and phone number of each protesting subscriber protesting the proposed rate increase; and

- (3) the name, mailing address, and phone number of each protesting subscriber's attorney, if any.

**B. Additional information encouraged.** Protesting subscribers are strongly encouraged, but not required, to file with the protest any data, exhibits, illustrations, prepared testimony, or written argument pertinent to the protest which may aid the Commission in its review of the proposed rates. In addition, the affected subscribers should make an effort to serve a copy of the protest on the incumbent rural telecommunications carrier.

**C. Format.** All protests shall show a caption of the proceeding, shall include a space for the docket number, and shall be titled "Protest". When possible, protests shall be typed, double-spaced, on 8 1/2 inch by 11 inch paper fastened only on the left side. Protesting subscribers may, but are not required to, use the form provided in 17 NMAC 13.9.12 [now 17.11.9.12 NMAC] for protests. An incumbent rural telecommunications carrier shall make copies of the Commission's protest form provided in 17 NMAC 13.9.12 [now 17.11.9.12 NMAC] and instructions provided in 17 NMAC 13.9.13 [now 17.11.9.13 NMAC] available to its subscribers upon request. An incumbent rural telecommunications carrier shall also promptly deliver the protest form and instructions to its subscribers upon request.

**D. Filings with the Commission.** Unless the Commission otherwise directs, protesting subscribers shall file with the Commission an original plus one (1) copy of the protest and any accompanying documents.

[1-14-00; Recompiled 12/31/01]

**17.11.9.11 CONFLICTS IN PROCEDURES:** If any procedure established in this rule conflicts with a procedure set forth in 17 NMAC 1.2 [now 17.1.2 NMAC], Utility Division Procedures, the procedures provided in this rule shall govern.

[1-14-00; Recompiled 12/31/01]

**17.11.9.12 PROTEST FORM**

IN THE MATTER OF THE \_\_\_\_\_ )  
FILING OF NEW RATES BY \_\_\_\_\_ )  
(insert name of Incumbent Rural Telecommunications Carrier) CASE NO. \_\_\_\_\_  
PROTEST OF PROPOSED RATE INCREASE  
FOR RESIDENTIAL LOCAL EXCHANGE SERVICE

SUBMITTED BY:

Name of Protesting Subscriber: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_  
(Attach the name, mailing address, and telephone number of each protesting subscriber.)

ATTORNEY INFORMATION:

Attorney's Name: \_\_\_\_\_

Attorney's Address: \_\_\_\_\_

Attorney's City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Attorney's Work Phone: \_\_\_\_\_  
(Attach the name, mailing address, and telephone number of the attorney of each protesting subscriber.)

I am a customer of (insert name of incumbent rural telecommunications carrier).

I protest the following rate increase for residential local exchange service being proposed by the above-named

Incumbent Rural Telecommunications Carrier  
(insert here the particular rate increase that is being protested)

I protest the rate increase for the following reasons:

In its review of the proposed rate increase, I request that the Commission grant the following relief:  
[1-14-00; Recompiled 12/31/01]

**17.11.9.13 INSTRUCTIONS FOR FILING A PROTEST:** When an affected subscriber requests a copy of the Commission's protest form, a rural incumbent telecommunications carrier shall provide a copy of the following instructions together with the form contained in 17 NMAC 13.9.12 [now 17.11.9.12 NMAC]:

Instructions for Protesting an Rural Incumbent Telecommunications Carrier's Residential Local Exchange Service Proposed Rate Increase

17 NMAC 13.9 [now 17.11.9 NMAC], Retail Rate Filing Procedures for Incumbent Rural Telecommunications Carriers, implements NMSA 1978, Section 63-9H-7 (1999), a state law passed in 1999 that allows an incumbent rural telecommunications carrier to propose rate increases for residential local exchange service to its customers. If two and one-half percent of all affected subscribers protest to the Commission, the Commission may review the rate increase in a formal rate case. If fewer than two and one-half percent of all affected subscribers protest, the rate increase will go into effect without Commission review.

To file a protest, you must be a subscriber of the incumbent rural telecommunications carrier seeking an increase in rates. The protest must be received by the Commission within sixty (60) days from the date the notice of the proposed rate change was sent to affected subscribers.

To protest, fill out the enclosed protest form as completely as possible. You may leave the case number blank and you do not need to fill out the information about attorneys if you do not have an attorney.

You should deliver a copy of the protest and any accompanying documents to the incumbent rural telecommunications carrier either in person or by mail.

You must also file an original and fourteen (14) copies of the protest form and any accompanying documents.

If you file the protest in person, bring it to: New Mexico Public Regulation Commission, Marian Hall, 224 East Palace Avenue, Santa Fe, New Mexico 87501-2013

If you file the protest by mail, send it to: New Mexico Public Regulation Commission, P.E.R.A. Building, P.O. Box 1269, Santa Fe, NM 87504-1269

For more information, you may call the Commission at 505-827-6940, or contact the incumbent rural telecommunications carrier.

[1-14-00; Recompiled 12/31/01]

**History of 17.11.9 NMAC:** [RESERVED]