

This rule was filed as SCC Rule 89-2.

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 11 TELECOMMUNICATIONS**  
**PART 14 IN THE MATTER OF THE COMMISSION'S INQUIRY INTO THE APPROPRIATE REGULATORY STANDARDS APPLICABLE TO NON-FACILITIES BASED RESELLERS OF TELECOMMUNICATION SERVICES WITHIN THE STATE OF NEW MEXICO**

**17.11.14.1 ISSUING AGENCY:** New Mexico State Corporation Commission [New Mexico Public Regulation Commission] - Telecommunications Division.  
[Recompiled 12/30/01]

**17.11.14.2 SCOPE:**  
[Recompiled 12/30/01]

**17.11.14.3 STATUTORY AUTHORITY:**  
[Recompiled 12/30/01]

**17.11.14.4 DURATION:**  
[Recompiled 12/30/01]

**17.11.14.5 EFFECTIVE DATE:**  
[Recompiled 12/30/01]

**17.11.14.6 OBJECTIVE:** The purpose of these rules and regulations, together with the Commission's Rules and Procedure, and other rules and regulations of the Commission relating to telecommunications heretofore or hereafter promulgated by the Commission, and Orders of the Commission heretofore or hereafter issued by the Commission, is to administer the Act, pursuant to the provisions of Section 13 thereof.  
[Recompiled 12/30/01]

**17.11.14.7 DEFINITIONS:** As used in the Rules of Regulations for Non-Facilities Based Resellers of Telecommunications Services:

- A. "Commission" means the New Mexico State Corporation Commission [New Mexico Public Regulation Commission].
- B. "Act" means the New Mexico Telecommunications Act, Section 63-9A-1 et seq. NMSA.
- C. "Public telecommunications services" refers to that definition of the term as set forth in Section 3(L) of the New Mexico Telecommunications Act.
- D. "Certificate" means a certificate of public convenience and necessity issued by the State Corporation Commission [Public Regulation Commission] for the provision of public telecommunication services within the State of New Mexico.

[Recompiled 12/30/01]

**17.11.14.8 RULES AND REGULATIONS FOR NON-FACILITIES BASED RESELLERS OF PUBLIC TELECOMMUNICATIONS SERVICES:** This matter came before the New Mexico State Corporation Commission [New Mexico Public Regulation Commission] ("Commission") pursuant to its own inquiry into the applicable regulatory standards to be applied to non-facilities based resellers of public telecommunications service within the State of New Mexico; and the Commission, having reviewed the comments submitted by the various parties, and having reviewed and considered the arguments of counsel, hereby adopts the following rules and regulations for non-facilities based resellers of Telecommunications Services in New Mexico.  
[Recompiled 12/30/01]

**17.11.14.9 TITLE:** These regulations maybe cited as the Rules and Regulations for Non-Facilities Based Resellers of Public Telecommunication Service.

[Recompiled 12/30/01]

**17.11.14.10 CERTIFICATE REQUIRED:**

- A. No reseller shall offer public telecommunications services in this state except in accordance with the provisions of the Act, and these Rules and Regulations.
- B. No reseller shall offer public telecommunications services in this state without the provider thereof first having obtained a Certificate to provide such service from the Commission.

[Recompiled 12/30/01]

**17.11.14.11 EXISTING CERTIFICATES:**

- A. All Certificates heretofore issued by the Commission to resellers shall continue to full force and effect.
- B. All Certificates heretofore issued by the Commission to resellers shall be subject to the provisions of these rules and regulations.

[Recompiled 12/30/01]

**17.11.14.12 CERTIFICATE APPLICATIONS:**

- A. Any person, corporation, municipal corporation, partnership or association proposing to act as a reseller within this state shall first make application to the Commission for a certificate. Such application shall conform to the provisions of the Act and to the Commission's Rules and Procedures relating to pleadings, procedure and practice before the Commission.
- B. The application for certificate shall contain sufficient information to demonstrate that:
  - (1) it is economically feasible to operate the proposed services successfully and continuously;
  - (2) the applicant has sufficient financial resources to provide the proposed telecommunications services properly and continuously;
  - (3) the applicant has competent and experienced management personnel to provide the proposed telecommunications service;
  - (4) the applicant is willing and able to conform to the constitution and laws of the State of New Mexico and to the rules and regulations of the Commission;
  - (5) the applicant is in every respect willing and able to provide public telecommunications services properly and continuously.
- C. The application for certificate shall include:
  - (1) a precise description of the exact and particular public telecommunication service or services the applicant proposes to provide;
  - (2) precise description of the geographical area the applicant proposes to service and obtain a certificate therefore, together with a[n] accurate map thereof;
  - (3) the proposed tariff to be used by the reseller detailing all rates, charges, rules and regulations governing the provisions of intrastate telecommunications services.

[Recompiled 12/30/01]

**17.11.14.13 NOTICE OF APPLICATIONS FOR CERTIFICATES:**

- A. The Commission, upon the filing of an application for a certificate, shall set the time and place for hearing thereon and such other and further procedural dates and requirements of the Commission as it shall deem proper. The Commission will require the applicant to serve notice of the application together with all procedural and hearing dates on all known interested parties, and further require the applicant to cause a similar notice of the application and the procedural and hearing dates to be published in the newspaper of general circulation in the geographical area where the proposed services to be offered at least 20 days prior to the date of hearing on the application.
- B. The Commission may entertain intervention in a proceeding involving an application for a certificate by any interested person and may require the filing of written testimony concerning the application at any time the Commission sees fit.

[Recompiled 12/30/01]

**17.11.14.14 HEARING:**

A. All hearings conducted pursuant to an application for a certificate shall be conducted pursuant to the Commission's Rules of Procedure, unless otherwise provided herein or by order of the Commission.

B. The burden of establishing that the issuance of a certificate is in the public interest and that all requirements for the issuance of a certificate have been met shall rest with the applicant for such certificate.

C. The Commission shall determine when and upon what conditions the public telecommunication services proposed to be offered by the reseller may be provided and shall determine such terms and conditions as will attach to the exercise of the rights afforded by the certificate.

[Recompiled 12/30/01]

**17.11.14.15 ADDITIONAL PROVISIONS:**

A. Resellers desiring to change their approved rates and charges, to either increase such rates or decrease such rates, shall file with the commission an application for adjustment of rates and charges. The application shall contain New Mexico specific data indicating the then current earnings, investment and expenses of the company as a whole within the state.

B. The application shall be filed in the office of the chief clerk, who shall assign a docket number to such application.

C. The Commission, upon the filing of an application for adjustment of rates and charges, shall set the time and place for hearing thereon, and such further procedural dates and requirements as the commission shall deem proper. The commission will require the applicant to cause a notice of the application and other procedural and hearing dates to be published in a newspaper of general circulation in the geographic area where the reseller's public telecommunication services are offered.

D. The Commission may entertain intervention in a proceeding for an adjustment of rates and charges by interested persons.

E. All hearings pursuant to an application for adjustment of rates and charges shall be conducted pursuant to the Commission's Rules of Procedure, unless otherwise ordered by the commission.

F. In determining and fixing rates and charges of a reseller pursuant to application for adjustment of such rates and charges, the Commission shall consider rates to be just and reasonable where state specific revenues are sufficient to produce an operating ratio for the company within a range of 60% to 90% .

G. On or before April 1, 1989, and on such date of each year thereafter, resellers shall file with the Commission annual reports of their New Mexico Intrastate operating results. Such reports shall be based upon Generally Accepted Accounting Principles (GAAP). Annual reports to be filed by resellers shall contain all pertinent financial data of their operations. Data to be contained in the annual reports shall include, but not be limited to:

(1) rate base if any;

(2) expenses, split into various categories such as access charge expenses, expenses for purchase of other services from LEC's or IXC's such as MTS, WATS and PL services, foreign exchange services and local services, billings and collection services, administrative expenses, commercial and marketing expenses, advertising expenses, depreciation expenses, ad valorem taxes, federal, state and local income taxes, franchise taxes, gross receipts taxes and other such expenses;

(3) revenues split into various services or service categories offered by resellers;

(4) number of customers in the state and traffic or call volume (number of messages and minutes of use) and quantities of other services such as number of circuits.

H. Resellers shall not be required to carry their books on Uniform System of Accounts. The data submitted in the annual report should be divided into intrastate and interstate operations so that the Commission is able to assess the reasonableness of the profitability and continued viability of the resellers' intrastate operations.

[Recompiled 12/30/01]

**17.11.14.16 SEVERABILITY:** If any part or section of these rules and regulation, or the application thereof is determined to be invalid, the remainder of the rules of regulations, and the application thereof shall remain in full force and effect. Done and entered on record this 29th day of December, 1988.

A. Jerome D. Block, Chairman,

B. Eric P. Serna, Commissioner,

C. John A. Elliott, Commissioner,

D. ATTEST: Richard I. Harris, Chief Clerk.

[Recompiled 12/30/01]

**HISTORY OF 17.11.14 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records - State Records Center and Archives.

SCC Rule No. 89-2, In The Matter Of The Commission's Inquiry Into The Appropriate Regulatory Standards Applicable To Non-Facilities Based Resellers Of Telecommunication Services Within The State Of New Mexico, 4/12/89.

History of Repealed Material: [RESERVED]