

This rule was filed as SCC 94-01-TC.

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 11 TELECOMMUNICATIONS
PART 15 RULE CONCERNING PAYPHONE PROVIDERS

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

17.11.15.2 SCOPE: This rule is applicable to all payphones operating in New Mexico.
[Recompiled 12/30/01]

17.11.15.3 STATUTORY AUTHORITY: This rule is adopted pursuant to Article XI of the New Mexico Constitution.
[Recompiled 12/30/01]

17.11.15.4 DURATION:
[Recompiled 12/30/01]

17.11.15.5 EFFECTIVE DATE:
[Recompiled 12/30/01]

17.11.15.6 OBJECTIVE: The purpose of this rule is to establish statewide uniform regulations governing payphones so as to ensure reasonable compensation for payphone providers while protecting consumers against unreasonable rates and restrictions, inadequate service, and payphones in disrepair.
[Recompiled 12/30/01]

17.11.15.7 DEFINITIONS: As used in this rule, the following terms have the meanings provided, unless a different meaning is clearly expressed in the context in which the term is used. The Commission will interpret the definitions broadly enough to ensure compliance with the purpose of this rule.

- A. Commission means the New Mexico State Corporation Commission [New Mexico Public Regulation Commission].
 - B. Consumer means the person initiating a telephone call at a payphone.
 - C. Equal access code means an access code that allows the consumer to obtain an equal access connection to the carrier or operator service provider associated with that code.
 - D. Institutional Payphone means a payphone accessible only to a captive population, such as a jail, prison, other penal facility or mental hospital.
 - E. Local Call means a telephone call which originates and terminates within the same local calling area as defined by the local exchange company for the area in which the call originates.
 - F. Payphone means a telephone instrument capable of providing and/or reselling public telecommunications service by coin or other billing method.
 - G. Payphone Provider means a person or entity which provides and/or resells public telecommunications service by coin or other billing method from a payphone.
 - H. Toll call means a telephone call which originates and terminates in different local calling areas as defined by the local exchange company for the area in which the call originates.
 - I. "Watrous" Payphone means a payphone provided by a local exchange company which the Commission has determined to be necessary for public health and safety reasons.
- [Recompiled 12/30/01]

17.11.15.8 RULE CONCERNING PAYPHONE PROVIDERS: [Table of Contents]

- A. Authority. [Statutory Authority: 17.11.15.3 NMAC]
- B. Purpose. [Objective: 17.11.15.6 NMAC]
- C. Applicability. [17.11.15.2 NMAC]

- D. Exemptions. [17.11.15.9 NMAC]
- E. Definitions. [17.11.15.7 NMAC]
- F. Registration requirements. [17.11.15.10 NMAC]
- G. Acknowledgment of registration. [17.11.15.11 NMAC]
- H. Fees. [17.11.15.12 NMAC]
- I. Payphone rates and charges. [17.11.15.13 NMAC]
- J. Responsibilities of the payphone provider. [17.11.15.14 NMAC]
- K. Payphone service and equipment requirements. [17.11.15.15 NMAC]
- L. Institutional payphone service and equipment requirements. [17.11.15.16 NMAC]
- M. Signage requirements. [17.11.15.17 NMAC]
- N. Watrous payphones. [17.11.15.18 NMAC]
- O. Complaints. [17.11.15.19 NMAC]
- P. Enforcement. [17.11.15.20 NMAC]
- Q. Transition from old rule to this rule. [17.11.15.21 NMAC]
- R. Waiver. [17.11.15.22 NMAC]
- S. Severability. [17.11.15.23 NMAC]

[Recompiled 12/30/01]

17.11.15.9 EXEMPTIONS:

- A. Institutional payphones are exempt from sections 9[c], 11, 13, and 14 [Subsection C of 17.11.15.13 NMAC, Sections 15, 17 and 18 of 17.11.15 NMAC] of this rule.
- B. Payphones owned by local exchange companies are exempt from sections 9[a], 9[b], 11[h], and 12[e] [Subsections A and B of 17.11.15.13 NMAC, Subsection H of 17.11.15.15 NMAC, and Subsection E of 17.11.15.16 NMAC] of this rule.

[Recompiled 12/30/01]

17.11.15.10 REGISTRATION REQUIREMENTS:

- A. Prior to offering or providing any public telecommunications service through a payphone, all payphone providers must register with the Commission.
- B. An application for registration as a payphone provider in New Mexico must be filed on the form prescribed by the Commission.
- C. An equipment report for each payphone instrument operating in New Mexico must be filed with the Commission on the form prescribed by the Commission.
- D. In addition to the application for registration and the equipment report(s), the payphone provider must file a copy of the display card to be posted at every instrument containing all the information required by Section 13 [17.11.15.17 NMAC].
- E. Registration may be denied for failure to provide the required information or documents, or for failure to remit the required fees. Notice of denial will include a statement indicating the reason for rejection.
- F. Registration shall be renewed annually by filing an annual report on a form prescribed by the Commission. The annual report shall be submitted by February 15th of each year and shall contain information regarding the prior calendar year. At a minimum, the form shall require the payphone provider to update any information contained in its original application for registration or last annual report, as appropriate. The form also shall require the payphone provider to submit a summary of complaints it has received, separated by type of complaint, and a statement describing what the payphone provider has done in response to such complaints.

[Recompiled 12/30/01]

17.11.15.11 ACKNOWLEDGMENT OF REGISTRATION:

- A. Upon receipt of the required forms, fees, and documents, the commission will issue an acknowledgment of registration.
- B. Local exchange companies shall not provide public access lines to payphones until the payphone provider submits a copy of its acknowledgment of registration.

[Recompiled 12/30/01]

17.11.15.12 FEES: The Commission may by order establish a fee schedule for registration of payphone providers and payphones operating in New Mexico.
[Recompiled 12/30/01]

17.11.15.13 PAYPHONE RATES AND CHARGES:

- A. The maximum allowable rate for a local sent paid call placed from a non-local exchange company-owned payphone shall be determined periodically by the Commission following notice and a public hearing.
 - B. The maximum allowable rate for a local directory assistance call placed from a non-local exchange company-owned payphone shall be determined periodically by the Commission following notice and a public hearing.
 - C. Every payphone operating in New Mexico shall be required to provide access for the calls listed below without the use of coins or cards of any type, and without any charge to the consumer.
 - (1) emergency calls (911 or "0").
 - (2) calls to report equipment malfunctions (repair).
 - (3) calls to obtain a refund.
 - (4) access to all operator services providers.
 - (5) incoming calls.
 - D. Neither the consumer nor any third party may be billed for any surcharges imposed by the payphone provider nor for any other rate or charge that is not approved for that call by the Commission.
- [Recompiled 12/30/01]

17.11.15.14 RESPONSIBILITIES OF THE PAYPHONE PROVIDER:

- A. The payphone provider shall not contract for intrastate operator services or interexchange services with any company not certificated by the Commission to provide such services. Any payphone provider using payphones with automated technology must itself be certificated by the Commission as an operator services provider before such automated payphones are put into operation.
- B. The payphone provider shall be responsible for all public access line charges.
- C. The payphone provider shall be responsible for repairing, maintaining and servicing the payphone instrument.
- D. All payphones installed in New Mexico shall comply with state and local laws, Commission rules, current National Electrical Code and National Electrical Safety Code requirements, and the generally accepted telecommunications industry technical standards of the National Association of Regulatory Utility Commissioners.
- E. The payphone provider shall notify the Commission in writing within thirty (30) days of the following changes:
 - (1) The location and phone number of any payphones that are newly installed or removed.
 - (2) Change in name or d/b/a under which the payphone provider is doing business.
 - (3) Changes in name of the payphone provider or its responsible official.
 - (4) Changes in mailing address or telephone number of payphone provider.
 - (5) Acquisition of payphone locations registered to another payphone provider.
- F. The payphone provider shall be responsible for paying all required fees to the Commission.

[Recompiled 12/30/01]

17.11.15.15 PAYPHONE SERVICE AND EQUIPMENT REQUIREMENTS: The following requirements apply to all payphones operating in New Mexico, except institutional payphones, and are the responsibility of the payphone provider:

- A. Each outdoor payphone must have lighting at night if alternating current is available within fifty feet of the payphone.
- B. Coinless payphones are permitted only when at least one coin-operated payphone is available at the same location. All coin-operated payphones must be capable of accepting nickels, dimes and quarters.
- C. The dial tone must be available without coin.
- D. Immediate coin return shall be required for uncompleted coin calls.
- E. The payphone instrument must be maintained in good repair.
- F. Payphones operating in New Mexico must comply with all applicable federal, state and local laws regarding accessibility by hearing impaired or physically disabled persons.

- G. All payphones installed in New Mexico must provide both local and toll service.
 - H. A separate public access line is required for each payphone instrument installed.
 - I. An audible bell or other sound shall be required to indicate an incoming call.
 - J. Payphone providers shall check each payphone location at least monthly in order to ensure that they have made a local telephone directory available at each payphone location.
 - K. The payphone provider may place reasonable limitations on the duration of local calls made to or from a payphone, but no time limits may be placed on emergency phone calls.
 - L. All payphones operating in New Mexico shall allow the consumer to use "800" and "950" access code numbers as well as equal access codes to obtain access to the consumer's desired provider of operator services.
 - M. All payphones must connect the consumer to the operator service provider of the consumer's choice as quickly as the payphone provider's equipment allows.
- [Recompiled 12/30/01]

17.11.15.16 INSTITUTIONAL PAYPHONE SERVICE AND EQUIPMENT REQUIREMENTS: The following requirements apply to all institutional payphones operating in New Mexico:

- A. The dial tone must be available without coin.
 - B. The payphone instrument must be maintained in good repair.
 - C. Payphones operating in New Mexico must comply with all applicable federal, state and local laws regarding accessibility by hearing impaired or physically disabled persons.
 - D. All payphones installed in New Mexico must provide both local and toll service.
 - E. A separate public access line is required for each payphone instrument installed.
 - F. The payphone provider may place reasonable limitations on the duration of calls made from a payphone.
- [Recompiled 12/30/01]

17.11.15.17 SIGNAGE REQUIREMENTS:

- A. The information required by this section must be posted on or near the payphone instrument, in plain view of consumers.
 - B. All required instructions must be provided in both English and Spanish.
 - C. The sign must contain the following information, organized in a logical manner, and designed for ease of use and comprehension:
 - (1) dialing instructions for:
 - (a) emergencies (911 or "0");
 - (b) directory assistance;
 - (c) obtaining rates for toll calls;
 - (d) obtaining operator assistance; and
 - (e) reporting service problems (repair).
 - (2) any restrictions on phone use such as limitations on the duration of incoming or outgoing calls;
 - (3) the payphone provider's name, address and telephone number;
 - (4) telephone number of the payphone instrument;
 - (5) the name, address and telephone number of the presubscribed operator services provider and of any other telecommunications toll service provider.
 - (6) the rate for a local call and for a local directory assistance call.
 - D. The payphone provider shall comply with all signage requirements adopted by the Federal Communications Commission.
- [Recompiled 12/30/01]

17.11.15.18 WATROUS PAYPHONES: The commission shall determine annually which payphones should be "Watrous" payphones and the appropriate local exchange company to provide them. No "Watrous" payphone shall be disconnected without prior written authorization from the State Corporation Commission [Public Regulation Commission].

[Recompiled 12/30/01]

17.11.15.19 COMPLAINTS: Complaints regarding violations of this rule may be made by any consumer by writing a letter addressed to the attention of the Director of Telecommunications, State Corporation Commission [Public Regulation Commission], P.O. Drawer 1269, Santa Fe, New Mexico 87504-1269.
[Recompiled 12/30/01]

17.11.15.20 ENFORCEMENT:

A. Initiation of proceedings: Upon receipt of a complaint alleging a violation of this rule, or on its own motion, the Commission may initiate enforcement proceedings in accordance with the Rules of Procedure for the State Corporation Commission [Public Regulation Commission].

B. Penalties: The Commission may assess such penalties as allowed by law, including but not limited to:

- (1) statutory fines;
- (2) public access line disconnection; or
- (3) revocation of registration.

C. Other penalties: The assessment of any penalty by the Commission for a violation of this rule does not preclude the assessment of a penalty by any other New Mexico agency for violation of its rules arising from the same cause.

[Recompiled 12/30/01]

17.11.15.21 TRANSITION FROM OLD RULE TO THIS RULE:

A. Registration: Payphone providers currently registered under the Commission's COCOTs regulation pursuant to Docket No. 1084 (SCC Rule No. 85-8, In the Matter of Adoption of Rules and Regulations for the Placement and Operation of Customer Owned Coin Operated Telephones) shall continue to be authorized as payphone providers. The Commission shall notify currently registered payphone providers on a staggered basis as to the form and manner of filing reregistration forms and equipment reports to bring them into compliance with the requirements of this rule.

B. Equipment: Payphone providers may petition the Commission for permission to continue using existing equipment that does not meet the requirements of this rule. If the Commission finds, after notice and a public hearing, that the petitioner has shown that there is good cause to grant such permission, that it is in the public interest to do so, and that it will not violate FCC requirements, the Commission may approve the petition.

[Recompiled 12/30/01]

17.11.15.22 WAIVER: The Commission recognizes that public health and safety may in rare cases require an exception to a requirement contained in this rule. In those cases, the payphone provider may petition the Commission for a waiver of a particular requirement. After notice to all interested parties, the Commission will hold a public hearing on the matter. The burden will be on the payphone provider to prove that the circumstances regarding a particular payphone will adversely affect the public health and safety if a waiver of a certain requirement is not granted.

[Recompiled 12/30/01]

17.11.15.23 SEVERABILITY: If any part of this rule is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

[Recompiled 12/30/01]

HISTORY OF 17.11.15 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 85-5, In The Matter Of Adoption Of Rules And Regulations For The Placement And Operation Of Customer Owned Coin Operated Telephones 7/1/85.

SCC 85-8, Rules And Regulations For Placement And Operation Of Customer Owned Coin Operated Telephones, 9/19/85.

SCC 94-01-TC, Rule Concerning Payphone Providers; 4/5/94.

History of Repealed Material: [RESERVED]

