

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 11 TELECOMMUNICATIONS**  
**PART 21 EXPEDITED PROCEDURES FOR INTRASTATE LONG DISTANCE PROVIDERS**

**17.11.21.1 ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[17.11.21.1 NMAC - N, 1-1-01]

**17.11.21.2 SCOPE:** This rule applies to all carriers providing intrastate long distance telecommunications services in New Mexico except incumbent local exchange carriers with fewer than 50,000 access lines. Procedures for these carriers are provided in 17.11.9 NMAC, Retail Rate Filing Procedures for Incumbent Rural Telecommunications Carriers.  
[17.11.21.2 NMAC - N, 1-1-01]

**17.11.21.3 STATUTORY AUTHORITY:** NMSA 1978 Sections 8-8-4, 63-7-1.1, 63-9A-8, and 63-9A-8.1.  
[17.11.21.3 NMAC - N, 1-1-01]

**17.11.21.4 DURATION:** Permanent.  
[17.11.21.4 NMAC - N, 1-1-01]

**17.11.21.5 EFFECTIVE DATE:** January 1, 2001, unless a later date is cited at the end of a section.  
[17.11.21.5 NMAC - N, 1-1-01]

**17.11.21.6 OBJECTIVE:** The purpose of this rule is to establish expedited procedures for certificating intrastate long distance providers and modifying intrastate long distance tariffs.  
[17.11.21.6 NMAC - N, 1-1-01]

**17.11.21.7 DEFINITIONS:** In addition to the definitions in NMSA 1978 Section 63-9A-3, as used in this rule:

**A.** 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.

**B.** certificate of registration means the operating authority issued by the commission for the provision of intrastate long distance telecommunications services in New Mexico.

**C.** incumbent local exchange carrier (ILEC) means 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. A carrier will also be 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). An ILEC shall be considered an IXC for purposes of this rule to the extent it provides intrastate long distance telecommunications service or local exchange service outside its service area, as defined by the commission.

**D.** interexchange carrier (IXC) means a telecommunications carrier providing intrastate long distance telecommunications service that has no common ownership interest, unless through a separate subsidiary, with an incumbent local exchange carrier providing telecommunications service in New Mexico.

**E.** promotion means a means a special rate for a service provided by an intrastate long distance provider which is available for a limited period of time, and may include rebates, price reductions, or waivers of charges in conjunction with common business practices such as market trials or other sales-related activities.

[17.11.21.7 NMAC - N, 1-1-01]

**17.11.21.8 CONFLICTS:** In the event any provision of this rule conflicts with a provision of 17.11.4 NMAC, Registration Requirements for Resold Intrastate Long Distance Telecommunications Services and Intrastate Operator Services, the provisions of this rule shall control.  
[17.11.21.8 NMAC - N, 1-1-01]

**17.11.21.9 CERTIFICATE OF REGISTRATION REQUIRED:**

**A.** No person shall offer intrastate long distance telecommunications services in New Mexico without

having first obtained a certificate of registration from the commission to provide such service.

**B.** Any person seeking to provide intrastate long distance telecommunications services in New Mexico shall file an application with the commission for a certificate of registration in accordance with the provisions of this rule.

**C.** All certificates of public convenience and necessity and certificates of registration issued by the commission prior to January 1, 2001 shall be continued and shall have the same force and effect as certificates of registration issued pursuant to this rule.

**D.** A holder of a certificate of public convenience and necessity or a certificate of registration that intends to cease providing continuous and adequate service to the public must comply with the provisions of this rule regarding discontinuance of service.

[17.11.21.9 NMAC - N, 1-1-01]

**17.11.21.10 PENDING APPLICATIONS AND TARIFF CHANGES:**

**A.** All applications for certificates of registration filed by IXC's pursuant to 17.11.4 NMAC, Registration Requirements for Resold Intrastate Long Distance Telecommunications Services and Intrastate Operator Services, pending as of the effective date of this rule shall be deemed applications for certificates of registration filed pursuant to this rule.

**B.** All proposed tariff changes filed pursuant to 17.11.4 NMAC, Registration Requirements for Resold Intrastate Long Distance Telecommunications Services and Intrastate Operator Services, pending as of the effective date of this rule shall be deemed proposed tariff changes filed pursuant to this rule.

[17.11.21.10 NMAC - N, 1-1-01]

**17.11.21.11 CONTENTS OF APPLICATION:** An application for a certificate of registration to provide intrastate long distance telecommunications services must contain:

**A.** the name, address, and telephone number of the applicant;

**B.** the name, address and telephone number of the person responsible for regulatory contacts and customer dispute resolution on behalf of the applicant;

**C.** a description of the applicant's existing operations and general service and operating areas in any other jurisdictions;

**D.** a list of the applicant's parent, subsidiary, and affiliated companies, together with the principal addresses and telephone numbers of each;

**E.** a general description of the facilities and equipment that will be used to provide services, including whether the service will be offered on a facilities basis, a resale basis, or a combination of both;

**F.** a statement that the applicant is aware of and will comply with the commission's rules, particularly 17.11.8 NMAC, Slamming and Cramming Protection;

**G.** disclosure of any formal actions against it by any court or state or federal regulatory agency that resulted in any type of penalty or sanctions within the five (5) years prior to the date of filing application. If such action has occurred, the applicant shall file a report regarding such action and any remedial actions taken;

**H.** if the applicant is a corporation, evidence that the applicant is authorized by the corporations bureau of the Commission to do business in New Mexico and that it is in good corporate standing in New Mexico;

**I.** if the applicant is other than a corporation, a description of the form of ownership, the names and addresses of all principal owners and managers, the applicant's agent for service of process in New Mexico, and the date the business entity was created;

**J.** initial tariffs or price lists for regulated telecommunications services, including a narrative description of the services to be offered and the geographic area and markets to be served. Initial tariffs shall not contain misleading, potentially misleading, deceptive, or fraudulent names, rates, terms or conditions; and

**K.** if the applicant is a regulated carrier, any other information the commission may reasonably require to accomplish the purposes of this rule.

[17.11.21.11 NMAC - N, 1-1-01]

**17.11.21.12 COMMISSION PROCEDURE:** Staff shall review an application for a certificate of registration within thirty (30) calendar days after filing to determine whether it is complete. If the application is incomplete, staff will return it to the applicant. If the application is complete, the director of the utility division, or his designee, shall issue a certificate of registration if he finds that the applicant is fit to provide intrastate long-distance telecommunications services, and that issuance of the certificate of registration is in the public interest.

[17.11.21.12 NMAC - N, 1-1-01]

**17.11.21.13 REPORTING REQUIREMENTS:** An intrastate long distance provider shall file an annual report with the commission by April 1 of each year, unless a different date is ordered by the commission, updating the information required by Subsections A through I of 17.11.21.11 NMAC in the time, manner and form prescribed by the commission.

[17.11.21.13 NMAC - N, 1-1-01]

**17.11.21.14 TRANSFER OF CERTIFICATE:**

**A.** Any holder of a certificate of registration to provide intrastate long distance telecommunications services in New Mexico seeking to transfer the certificate to another person shall first apply to the commission for approval of the transfer.

**B.** The commission shall approve an application for transfer of a certificate of registration upon receipt of a completed application and a copy of the tariff proposed to take effect upon approval of the transfer. The application shall meet the requirements of 17.11.21.11 NMAC.

[17.11.21.14 NMAC - N, 1-1-01]

**17.11.21.15 NOTICE OF CHANGE IN CIRCUMSTANCES:** An intrastate long distance provider shall notify the commission in writing prior to any change in circumstances, including, but not limited to:

**A.** a change in the intrastate long distance provider 's name, address or phone number;

**B.** a change in the name, address or phone number of the person responsible for regulatory contacts and customer dispute resolution;

**C.** merger of the intrastate long distance provider with another carrier;

**D.** acquisition of the intrastate long distance provider by another carrier;

**E.** acquisition by the intrastate long distance provider of another carrier;

**F.** transfer of the intrastate long distance provider 's certificate;

**G.** transfer of a significant portion of the intrastate long distance provider 's assets to another carrier; and

**H.** any other change in control of the intrastate long distance provider.

[17.11.21.15 NMAC - N, 1-1-01]

**17.11.21.16 DISCONTINUANCE OF SERVICE:**

**A.** Prior to discontinuing service, an intrastate long distance provider shall:

(1) no later than thirty (30) days prior to discontinuing service, file with the commission a notice of discontinuance of service showing:

(a) the number of customers affected; and

(b) the form of notice to be given to each customer.

(2) no later than thirty (30) days prior to discontinuing service, notify its customers of its intent to discontinue service, the proposed date and time of discontinuance, and any provisions it has made for continuation of its service, if applicable.

**B.** This section does not apply to individual service withdrawals of an intrastate long distance provider.

[17.11.21.16 NMAC - N, 1-1-01]

**17.11.21.17 TARIFF CHANGES, PROMOTIONS, AND NEW SERVICES:**

**A.** Tariffs not to be misleading. No proposed tariff change concerning a new service, promotion, or change in the rates, terms or conditions of a tariff shall contain misleading, potentially misleading, deceptive, or fraudulent names, rates, terms or conditions.

**B.** Intrastate long distance providers. Whenever an intrastate long distance provider proposes to change its tariff to include a new service or promotion, or to change any of the rates, charges, terms and conditions in its tariff, it shall file with the commission an original and five (5) copies of the proposed tariff changes at least ten (10) business days prior to their implementation. The intrastate long distance provider shall include in its filing a sequentially numbered transmittal letter, (e.g., 2000-1, 2000-2, etc.) containing a description of the proposed tariff changes. The proposed tariff change shall comply with all applicable commission rules. The tariff changes may go into effect after ten (10) business days unless staff notifies the intrastate long distance within ten (10) business days

of its concerns regarding the proposed tariff changes. If staff and the intrastate long distance provider are able to resolve staff's concerns, the proposed tariff changes may go into effect and no public hearing shall be required.

**C.** ILECs with 50,000 or more access lines. Whenever an ILEC with 50,000 or more access lines proposes to change its tariff to include a new long distance service or long distance promotion, or to change any of the long distance rates, charges, terms and conditions in its tariff, it shall file with the commission an original and five (5) copies of the proposed tariff changes at least ten (10) business days prior to their implementation. The ILEC shall include in its filing a sequentially numbered transmittal letter, (e.g., 2000-1, 2000-2, etc.) containing a description of the proposed tariff changes. The ILEC shall also include in its filing an affidavit stating it has met any imputation requirements required by the commission. The proposed tariff change shall comply with all applicable commission rules. The tariff changes may go into effect after ten (10) business days unless staff notifies the ILEC within ten (10) business days of its concerns regarding the proposed tariff changes. If staff and the intrastate long distance provider are able to resolve staff's concerns, the proposed tariff changes may go into effect and no public hearing shall be required.

**D.** Staff protests. If staff and the company are unable to resolve staff's concerns, staff shall file a protest with the records management bureau of the administrative services division, and the proposed tariff change shall not go into effect. The records management bureau shall assign a docket number to staff's protest. Staff's protest shall include a case caption and a heading that states "staff protest." The protest shall include as an attachment the proposed tariff changes filed by the company and any additional information furnished to staff by the company. The applicant shall have the burden of showing, after notice and hearing, why the proposed new service, promotion, or tariff change is in the public interest.

**E.** Filing requirements. On the same day it files paper copies of the proposed tariff changes with the commission, the intrastate long distance provider shall also submit an electronic copy of the transmittal letter containing the identity of the telecommunications company, a summary of the proposed new service, promotion or tariff change, and its effective date. The commission may prescribe additional form, content, manner of filing, or other requirements.

**F.** Notice to customers. The IXC shall provide notice of a rate change to affected customers in the first bill mailed to the customer following the effective date of the change.

[17.11.21.17 NMAC - N, 1-1-01; A, 3-14-01]

**History of 17.11.21 NMAC: [RESERVED]**