

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 11 TELECOMMUNICATIONS
PART 27 REPORTING REQUIREMENTS FOR ELIGIBLE TELECOMMUNICATIONS CARRIERS

17.11.27.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[17.11.27.1 NMAC - N, 02-14-08]

17.11.27.2 SCOPE: This rule applies to all entities that have been designated by the commission as telecommunications carriers eligible to receive disbursements from the state rural universal service fund or the federal universal service fund.
[17.11.27.2 NMAC - N, 02-14-08]

17.11.27.3 STATUTORY AUTHORITY: Sections 8-8-4 and 63-9H-6 NMSA 1978.
[17.11.27.3 NMAC - N, 02-14-08]

17.11.27.4 DURATION: Permanent.
[17.11.27.4 NMAC - N, 02-14-08]

17.11.27.5 EFFECTIVE DATE: February 14, 2008, unless a later date is cited at the end of a section.
[17.11.27.5 NMAC - N, 02-14-08]

17.11.27.6 OBJECTIVE: The purpose of this rule is to ensure that each telecommunications carrier designated by the commission as eligible to receive disbursements from the state rural universal service fund or the federal universal service fund annually provides certifications and information to the commission reflecting its receipt and use of universal service fund support for intended purposes and verifying that it continues to meet the requirements for designation as an eligible telecommunications carrier.
[17.11.27.6 NMAC - N, 02-14-08]

17.11.27.7 DEFINITIONS:

A. “Carrier” means an entity that provides intrastate retail public telecommunications services or comparable retail alternative services in New Mexico.

B. “Commission” means the New Mexico public regulation commission.

C. “Eligible telecommunications carrier (ETC)” means a carrier that has been designated by the commission as eligible to receive disbursements from the state rural universal service fund or the federal universal service fund.

D. “Federal high-cost universal service fund (USF) support” means monetary support received from the federal USF under that category of the federal USF denominated as high cost loop support.

E. “Service area” means a geographic area established by the commission in accordance with Section 214(e)(5) of the federal act (47 U.S.C. Section 214(e)(5)).

F. “State rural universal fund (SRUSF) support” means monetary support received from the New Mexico state rural universal service fund established pursuant to Section 63-9H-6 NMSA 1978.

G. “Supported services” means the services supported by the federal high cost universal service support mechanisms.

[17.11.27.7 NMAC - N, 02-14-08]

17.11.27.8 REPORTING REQUIREMENTS: On or before August 10, 2008, and on or before August 10 of each year thereafter, each carrier designated by the commission as an ETC shall submit a written report to the commission containing the information and certifications set forth in this rule.

A. Supporting affidavit: each report shall be submitted with an affidavit by a person or officer of the carrier with personal knowledge of the contents of the report declaring that the contents of the report are correct.

B. Contents of report: each report shall contain the following certifications and information.

(1) Each ETC receiving federal high-cost USF support shall (i) certify that it will use the federal high-cost USF support only for the provision, maintenance and upgrading of facilities and services for which such support is intended; and (ii) for January 1 through December 31 of the previous year, provide a factual presentation of the expenses and investments made with federal high-cost USF support and a narrative description of how the

funds were spent. The factual presentation may consist of either cost documentation submitted by the carrier to the national exchange carrier association in its role as a contractor for the universal service administrative company for purposes of receiving federal high-cost support, or data that identifies total high-cost USF support received, network infrastructure maintenance and support costs, and capitalized costs. The narrative description shall consist of a service quality improvement plan for the current year and a progress report on the carrier's plan for January 1 through December 31 of the previous year. The report, which may include maps, shall demonstrate how the support was used during the previous year to improve coverage, service quality or capacity throughout the service area for which the carrier is designated as an ETC, how the carrier will use the support to improve coverage, service quality or capacity throughout the service area in the current year, and an explanation regarding any network improvement targets that have not been completed.

(2) Each ETC receiving SRUSF support shall (i) certify that it will use the SRUSF support in a manner consistent with the New Mexico rural telecommunications act, the federal telecommunications act and the commission's rules and orders; and (ii) for January 1 through December 31 of the previous year, describe how the SRUSF support (excluding SRUSF support received in connection with revenue neutral recovery for access charge reductions implemented pursuant to law) was used to preserve and advance universal service.

(3) A certification that the ETC is in compliance with the requirements of the federal communications commission's Outage Report Regarding Disruptions to Communications, 47 C.F.R.63.100, and that it has provided the commission with a copy of any such outage reports for January 1 through December 31 of the previous year and the number filed in that period.

(4) Information on the number of requests to the ETC for USF supported services from potential customers within the ETC's service area that were unfulfilled for the previous year, together with a detailed explanation of how the ETC attempted to provide service to those potential customers.

(5) A certification that the ETC continues to provide its customers with the toll-free number for the commission's consumer relations division and to advise its customers that they may contact the commission if they are unable to resolve service or billing problems with the carrier.

(6) Information on the number of customer complaints reported to the commission relating to USF supported services per 1000 handsets or lines for January 1 through December 31 of the previous year. Each complaint shall be identified in one of the following categories: (a) out-of-service/trouble, (b) billing, (c) installation or (d) other. The carrier shall provide a description of its efforts to resolve the complaints.

(7) A certification that the ETC is in compliance with applicable service quality standards and customer protection rules, including the CTIA consumer code for wireless service.

(8) A certification that the ETC is in compliance with its plan for emergency situations, including procedures for loss of a switch, maintaining sufficient reserve power, and minimizing service interruptions.

(9) A certification that the ETC advertises or publicizes the availability of and charges for USF supported services, lifeline/linkup services and tribal lifeline/linkup services using media of general distribution, including advertisements or publications reasonably calculated to reach those likely to qualify, and information on the number and location of such advertisements or publications for January 1 through December 31 of the previous year.

(10) Each competitive ETC must certify that it is offering a local usage plan comparable to the plan offered by the incumbent carrier in the relevant service area.

C. Compliance by an ETC with the reporting requirements of this rule satisfies the ETC's annual verification requirements under Subsection F of 17.11.10.24 NMAC.

D. Upon compliance by an ETC with the reporting requirements of this rule, the commission will timely provide appropriate certification to the federal communications commission of the ETC's use of federal high-cost USF support in accordance with applicable federal law.

[17.11.27.8 NMAC - N, 02-14-08]

17.11.27.9 CONFIDENTIALITY: Forward-looking information that is a trade secret is protected under the Inspection of Public Records Act. Any person seeking certification of its ETC status and desiring to protect as confidential material any information filed in compliance with this rule shall file a request pursuant to the applicable commission rule concerning protective orders, which can be found at Subsections A and B of 17.1.2.8 NMAC.

[17.11.27.9 NMAC - N, 02-14-08]

17.11.27.10 VARIANCES AND EXEMPTIONS: Any ETC may petition the commission for a variance or exemption from any provision of this rule for good cause shown.

A. General requirements:

- (1) any ETC may petition for a variance or exemption 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 a variance or exemption and motions for a stay must be supported by an affidavit signed by an officer of the ETC or someone with authority to sign for the ETC;
- (4) the commission may, at its discretion, require an informal conference or formal evidentiary hearing prior to making its determination.

B. Contents of the petition: a petition for a variance or exemption shall:

- (1) identify the section of this rule for which the variance or exemption is requested;
- (2) describe the situation which necessitates the variance or exemption;
- (3) describe the effect of complying with this rule on the ETC and its customers, or on its competitive affiliates and their customers, if the variance or exemption is not granted;
- (4) describe the result the request will have if granted;
- (5) state why the proposed alternative is in the public interest and is a better alternative than that provided by this rule;
- (6) state why the variance or exemption would have no anticompetitive effect.

[17.11.27.10 NMAC - N, 02-14-08]

HISTORY OF 17.11.27 NMAC: [RESERVED]