

**NOTICE OF PROPOSED RULEMAKING
DOCKET NO. 24-00028-UT**

The New Mexico Public Regulation Commission (the “Commission”) hereby gives notice of its initiation of a rulemaking proceeding to repeal or to amend two rules within the New Mexico Administrative Code, 17.11.24 NMAC and 17.11.25 NMAC.

Summary of the full text of the proposed rule and short explanation of its purpose: The Commission is considering repealing or amending two of the Commission’s rules, 17.11.24 NMAC and 17.11.25 NMAC. The first rule is 17.11.24 NMAC, “quality of service standards applicable to large incumbent local exchange carriers.” The purpose of this rule is to establish standards, procedures, and reporting requirements to ensure that large incumbent local exchange carriers (“LILECs”) provide telecommunications services to retail customers at an adequate quality of service level and in a manner consistent with the promotion of universal service. 17.11.24.6 NMAC. The second rule is 17.11.25 NMAC, “consumer protection standards applicable to large incumbent local exchange carriers.” The purpose of this rule is to establish consumer protection standards applicable to large incumbent local exchange carriers. 17.11.25.6 NMAC.

The Commission adopted these rules pursuant to the New Mexico Telecommunications Act (the “NMTA”), Section 63-9-A-1, NMSA 1978 *et seq.* At the time of adoption of the rules, the NMTA provided for limited regulation by the Commission of incumbent local exchange carriers serving more than 50,000 access lines in the state, or LILECs. Section 63-9A-3(F) & (I), 63-9A-5, & 63-9A-6 (2019) NMSA 1978. In 2023, the NMTA was amended by the passage of senate bill 41 (“SB 41”), described, in relevant part, as “an act relating to telecommunications; amending sections of the New Mexico Telecommunications Act; requiring that incumbent local exchange carriers that serve fifty thousand or more access lines be regulated in the same manner as incumbent rural telecommunications carriers in most cases; . . . providing definitions; requiring the public regulation Commission to report the steps taken to achieve regulatory parity among carriers; amending and repealing sections of the NMSA 1978.” SB 41, adopted in 2023 session of legislature.

The Commission proposes repealing these rules as the Commission does not regulate the quality of service provided by incumbent rural telecommunications carriers (“Rural ILECs”), and the Commission has no consumer protection standards for customers served by Rural ILECs. The Commission interprets the rural telecommunications act (the “RTA”), 63-9H-1, NMSA 1978, *et seq.*, as providing the Commission little or no authority to regulate the Rural ILECs. Thus, the Commission proposes that compliance with SB 41’s mandate that LILECs be regulated in the same manner as Rural ILECs would best be achieved by repealing the above rules. However, the Commission will consider arguments by commenters disputing the Commission’s understanding of its jurisdiction in this area, proposals by commenters to retain and to amend the rules, and any other arguments or proposals relevant to this proceeding.

Legal authority authorizing the proposed repeals, or, in the alternative, amendments to the rules: The Commission has the authority to repeal the above rules or to amend them under the New Mexico Constitution, Article XI, Sec. 2, under Subsection B of Section 62-19-21 NMSA 1978, Section 63-9A-5 NMSA 1978, and Paragraph (3) of Subsection A of 63-9A-21 NMSA 1978.

How copies of the proposed repeal statements and the current rules can be obtained: Copies of the proposed repeal statements and the current rules, as well as instructions for accessing the complete rulemaking record can be obtained from the rulemaking page on the Commission’s website at <https://www.nm-prc.org/rulemaking-proceedings/> or by contacting LaurieAnn Santillanes of the Commission’s Office of General Counsel at (505) 670-4830.

How a person can comment on the proposed repeals, where comments will be received, and when comments are due: Any person wishing to comment on the proposed repeals or to propose amendments to the rules may do so by submitting written initial comments no later than **July 22, 2024**. Any person wishing to respond to initial comments may do so by submitting written response comments no later than **August 7, 2024**. Comments can be

electronically filed by sending them in pdf format to prc.records@prc.nm.gov. Comments must refer to docket no. 24-00028-UT. All written comments will be posted on the Commission's website within three days of their receipt by the records bureau. The record closure date for this proceeding is **August 30, 2024**. From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the Commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person can participate in the hearing: A public comment hearing on the proposed repeal of the above rules and any proposed alternatives, to be presided over by the Commission or its designee, shall be held beginning at **10:00 a.m. on August 21, 2024**, with participation allowed in person in the Commission's second floor open meeting room at the offices of the Commission, located in the Bokum Building, at 142 West Palace Avenue, Santa Fe, NM 87501, or via the Zoom online platform. Any member of the public who wishes to make a comment at the hearing must contact Patrick Rodriguez at (505) 490-7910 or via email to public.comment@prc.nm.gov by no later than **12:00 noon on August 20, 2024**, to sign up as a hearing participant.

The Commission's office of general counsel will email a zoom invitation to all hearing participants the day before the hearing. The zoom invitation will include a call-in number for those participants who are unable to access the zoom platform via computer. The hearing will be held in order to receive oral comments. In the interest of administrative efficiency, only commenters who have not submitted written comments will be allowed to speak. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the Commission or its designee. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 24-00028-UT.

Persons with Disabilities: any person with a disability requiring special assistance to participate in this proceeding should contact the Commission's director of the administrative services division at (505) 827-8019 to request such assistance as soon as possible, preferably as soon as the person receives notice of this proceeding to allow consideration of the request and to arrange for a potential reasonable accommodation.

Instructions on how to access the complete rulemaking record, reports, and other items filed in the Commission's e-docket system can be found at <https://www.nm-prc.org/rulemaking-proceedings/>.