

This is an emergency amendment to 17.10.650 NMAC, Section 11, 3/23/2020.

17.10.650.11 CUSTOMER RELATIONS:

A. Customer information. Each utility shall:

- (1) maintain up-to-date maps, plans, or records of its entire transmission and distribution systems with such other information as may be necessary to enable the utility to advise prospective customers and others entitled to the information as to the facilities for serving any locality;
- (2) assist the customer or prospective customer in selecting the most economical rate schedule appropriate for his/her class of service;
- (3) notify customers affected by a change in rates or schedule classification;
- (4) post a notice in a conspicuous place in each office of the utility where applications for service are received informing the public that copies of the rate schedules and rules relating to the service of the utility as filed with the commission are available for inspection;
- (5) upon request inform its customers as to the method of reading meters; and
- (6) furnish such additional information as the customer may reasonably request.

B. Customer deposits. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

(1) A utility may not require a security deposit or other guarantee of payment as a condition of new or continued service to a customer except in the case of service:

- (a) to a customer that has not previously had utility service with the utility and that has not established an acceptable credit rating;
- (b) to a customer that has on three or more occasions, within a 12-month period, received a final notice;
- (c) as a condition for reconnection of service following discontinuance of service by the utility; or
- (d) to a customer that in an unauthorized manner has interfered with or diverted the service of the utility situated on or about or delivered to the customer's premises.

(2) In determining whether a customer who has not previously had utility service with the utility has an acceptable credit rating, a utility shall consider the following:

- (a) documentation that the customer has an adequate credit reference from a utility where the customer had prior utility service;
- (b) documentation obtained by the utility from a commercial credit source; or
- (c) any other reasonable documentation.

(3) A utility may give special consideration to a prospective or existing customer in determining if payment by an installment agreements is appropriate.

(4) If a utility requires a deposit, it shall have on file with the commission an approved rule setting forth the minimum and maximum deposit that may reasonably be required by the utility in cases involving all types of service. That rule shall conform to the following provisions:

(a) a deposit for a customer shall not exceed an amount equivalent to one sixth (1/6) of that non-residential customer's estimated annual billings; a utility shall base its deposit criteria upon the most recent available prior 12-month corresponding period at the same service location; or, if there is not a comparable period of service at the same service location, the deposit shall be based upon consumption of similar units in the same area;

(b) simple interest on deposits at a rate not less than the rate required by Section 62-13-13 NMSA 1978 shall accrue annually to the customer's credit for the time the deposit is held by the utility; by January 15 of each year the commission shall post on its website the minimum rate to be paid on any deposits required of a customer by any public utility; the deposit shall cease to draw interest on the date it is returned, on the date service is terminated or on the date the refund is sent to the customer's last known address.

(5) Each customer that posts a security deposit shall receive in writing at the time of tender of deposit or with the first bill a receipt as evidence thereof. A utility shall provide the means whereby a depositor may establish its claim if its receipt is lost. The receipt shall contain the following minimum information:

- (a) name of customer;
- (b) date of payment;

- (c) amount of payment; and
- (d) statement of the terms and conditions governing the payment, retention, interest

and return of deposits.

(6) Refunds. Any non-residential customer that has not received a final notice for the 12-month period from the date of deposit or guarantee for the 12-month period from the date of deposit or guarantee shall promptly receive a credit or refund in the amount of the deposit together with accrued interest due or shall be permitted to terminate any guarantee. If the amount of the deposit exceeds the amount of the current bill, the customer may request a refund in the amount of the excess if such excess exceeds twenty-five dollars (\$25.00). If the customer fails to qualify for a refund of the deposit on the one year anniversary date of the deposit, that account shall be reviewed at least annually, and the amount of the deposit shall be credited if the customer has not received a final notice during the preceding 12 months. A customer may request a refund at any time after 12-months payment history, which refund shall promptly be paid if the customer has not received a final notice during the prior 12-month period or a utility may pay such refund in the absence of a request within a reasonable period of time.

(7) Each utility shall maintain records to show:

- (a) the name and address of each depositor,
- (b) the amount and the date of the deposit, and
- (c) each transaction concerning the deposit.

(8) A record of each unclaimed deposit shall be maintained for at least three years during which time the utility shall mail a check or a letter to the customer at its last known address in an effort to return the deposit.

(9) Unclaimed deposits together with accrued interest shall be credited to the appropriate account and shall be handled as required by the Uniform Disposition of Unclaimed Property Act of the state of New Mexico.

C. Customer bill forms. The utility shall bill each customer as promptly as possible following the reading of his meter. The bill shall show:

- (1) the reading of the meter at the end of the period for which the bill is rendered;
- (2) the nominal date on which the meter was read;
- (3) the number and kind of units metered;
- (4) the applicable rate schedule or identification of the applicable rate schedule;
- (5) the gross or net amount of the bill;
- (6) the date by which the customer must pay the bill in order to benefit from any discount or

to avoid any penalty;

(7) a distinct marking to identify an estimated bill;

(8) any conversions from meter reading units to billing units from recording or other devices or any other factors such as fuel clause adjustments, power factor adjustments, applicable primary discounts for a customer-owned transformer, or billing unit additions for secondary metering of primary services used in determining the bill; and

(9) a multiplier constant when used to determine billing, whenever applicable.

(10) In lieu of information required by Paragraphs (4), (8), and (9) of this subsection, the utility may incorporate on the bill form a statement advising the customer that any additional information desired relative to the application of the rate schedule can be obtained by contacting one of the utility's offices.

D. Customer records. The utility shall retain records as may be necessary to effect compliance with 17.3.310 NMAC and with Subsection E of 17.10.650.11 NMAC, and Subsections D and E of 17.10.650.13 NMAC, and shall show, where applicable, the following:

- (1) MCF meter reading;
- (2) MCF consumption;
- (3) demand charges;
- (4) penalties; and
- (5) total amount of bill.

E. Adjustment of bills. Bills which are incorrect due to meter or billing errors are to be adjusted as follows.

(1) Fast meters. Whenever a meter in service is tested and found to have over-registered more than two percent (2%), the utility shall recalculate the bills for service for the period as determined below.

(a) The bills for service shall be recalculated from the time the error first developed or occurred if that time can be determined.

(b) If the time the error first developed or occurred cannot be determined, it shall be

assumed that the over-registration existed for a period equal to one half (1/2) the time since the meter was last tested, not to exceed six (6) months, and the bills for service shall be recalculated for that period.

(c) If the recalculated bills indicate that a refund is due an existing customer or a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded. The utility shall make refunds to the existing customer and to the next previous customer served through the same meter if the period of refund determined in accordance with this section extends into the period when the said next previous customer was served through the same meter. The refund to an existing customer may be in cash or as a credit on his bill if a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address, and the utility shall upon request made within three (3) months thereafter refund the amount due.

(2) Nonregistering meters. Whenever a meter in service is found not to register the utility may render an estimated bill.

(3) Slow meters. Whenever a meter is found to be more than two percent (2%) slow the utility may bill the customer for one half (1/2) of the undercharge caused by the error indicated by the test for a period of twelve (12) months unless the meter has been tested within the twelve-month period, in which event the customer may be billed for the undercharge caused by the error indicated by the test for the period since the meter was last tested. No back-billing will be sanctioned if the customer has called to the company's attention his doubts as to the meter's accuracy and the company has failed to check it within a reasonable time.

(4) Billing adjustments due to fast or slow meters shall be calculated on the basis that the meter should be one hundred percent (100%) accurate. For the purpose of billing adjustments the meter error shall be one half (1/2) of the algebraic sum of the error at full-rated flow plus the error at check flow.

(5) When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The utility will assist the customer in selecting the rate schedule under which he/she is eligible to be billed. However, the utility will not be held responsible to refund any overcharge caused by the customer's failure to select the appropriate rate schedule or to notify the utility of a change in his/her operations.

(6) When a customer has been undercharged as a result of an incorrect meter reading, incorrect application of the rate schedule, or other similar reasons, the amount of the undercharge may be billed to the customer.

(7) A utility and its special contract customers may make their own agreements with respect to adjustments for errors in measurement.

F. Reasons for denying or discontinuing service. Service may be denied or discontinued for any of the reasons listed below unless prohibited under Paragraph (3) of Subsection G of 17.10.650.11 NMAC. Unless otherwise stated the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued, except as provided in Paragraphs (1), (2), (3), and (4) of this subsection:

(1) without notice in the event of a condition determined by the utility to be hazardous;
(2) without notice in the event of customer use of equipment in such manner as to adversely affect the utility's equipment or the utility's service to others;

(3) without notice in the event of customer's tampering with, damaging, or deliberately destroying the equipment furnished and owned by the utility;

(4) without notice in the event of unauthorized use;

(5) for violation of, or noncompliance with, the utility's rules on file with and approved by the commission;

(6) for failure of the customer to fulfill its contractual obligations for service or facilities subject to the regulation by the commission;

(7) for failure of the customer to permit the utility reasonable access to equipment;

(8) for nonpayment of bill, provided the utility has given the customer final notice;

(9) for failure of the customer to provide the utility with a deposit as authorized by Subsection B of 17.10.650.11 NMAC, except that a utility may not discontinue service to an existing customer solely for failure to pay a deposit;

(10) for failure of the customer to furnish such service, equipment, permits, certificates, or rights-of-way as shall have been specified by the utility as a condition to obtaining service, or in the event such equipment or permissions are withdrawn or terminated; or

(11) for failure to pay for service of the same class at a previous metering point or points.

G. Reasons insufficient for denying or discontinuing service.

(1) The following shall not constitute sufficient cause for denial of or discontinuance of service to a present customer:

- (a) failure to pay for merchandise purchased from the utility;
- (b) failure to pay for a different type or class of public utility service;
- (c) failure to pay the bill of another customer as guarantor thereof; or
- (d) failure to pay for concurrent service of whatever class at a different metering

point.

(2) The following shall not constitute sufficient cause for denying service to a prospective customer:

(a) delinquency in payment for service by a previous occupant unless the previous occupant still resides at the premises;

(b) failure to pay for merchandise purchased from the utility; or

(c) failure to pay the bill of another customer as guarantor thereof.

(3) The following additional temporary emergency rules regarding disconnection of residential utility service shall be effective for the duration of time that governor's executive orders 2020-004 through 2020-0010 ("emergency executive orders") remain in effect:

(a) all utilities are prohibited from discontinuing residential utility service for non-payment during the time period the emergency executive orders are in effect;

(b) disconnections of residential utility service for non-payment issued on or after March 11, 2020 (the effective date of the emergency executive orders) are suspended for the duration of the effectiveness of the emergency executive orders;

(c) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders shall be waived;

(d) utilities are permitted to temporarily and immediately close in-person bill payment locations as long as they provide notice to residential customers regarding the same and notice how to pay electronically or by mail. In the event of closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;

(e) medical certificates set to expire shall not expire for the duration of the effectiveness of the emergency executive orders and shall automatically be extended for 90 days from the end of the emergency executive orders.

H. Material changes in character of service. If under the control of the utility and after adequate notice to customers, material changes in the character of gas service rendered shall be made only with the approval of the commission. Whenever required by any such change the utility shall make any necessary adjustments to the customers' appliances without charge and shall conduct such adjustment program with a minimum of inconvenience to customers.

I. Customer complaints. Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall maintain such records of customer complaints as will enable the utility to review and analyze its procedures and actions. The utility shall make such information available to the commission upon request.

[6/30/1988; 17.10.650.11 NMAC - Rn, NMPSC 650.18-650.26 & A, 6/15/2005; A, 3/29/2013; A/E, 3/23/2020]