

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DRM 12-036 RULEMAKING

OFFICE OF THE CONSUMER ADVOCATE'S

COMMENTS ON DRAFT PUC CHAPTER 400 RULES

The Office of the Consumer Advocate (OCA) proposes the following rules for incorporation into the Proposed Puc Chapter 400 Rules. The OCA also supports the Comments of New Hampshire Legal Assistance on Behalf of The Way Home, filed in this docket on May 30, 2013 and endorses those suggestions.

The following definitions are proposed to be inserted alphabetically:

I. Proposed Part Puc 402 DEFINITIONS

- (a) "Complaint" means an expression of dissatisfaction by a Customer which the VSP has failed to resolve to the Customer's satisfaction, after reasonable attempts were made. Reference Current Rule Puc 1202.04.
- (b) "Conference" means a meeting held in person or by telephone in which the Customer, VSP and commission staff participate, Reference Current Rule Puc 1202.05.
- (c) "Current bill" means the amount of money due to the VSP for Voice Service including all applicable state and federal taxes, rendered in the most recent billing period. Reference Current Rule Puc 1202.06.
- (d) "Customer" means any person, firm, partnership, corporation, cooperative marketing association, tenant, governmental unit, or a subdivision of a municipality, or the State of New Hampshire, who has contracted for Voice Service from any VSP. Reference Current Rule Puc 1202.07
- (e) "Disconnection" means a technological function which results in a Customer being physically or effectively separated or shut off from Voice Service. Reference Current Rule Puc 1202.08.
- (f) "Due date" means the date no less than 25 calendar days from the bill date when the bill is sent electronically or via first class mail. Reference Current Rule Puc 1202.09
- (g) "Financial hardship" means a residential Customer has provided the VSP with evidence of current enrollment of the Customer or the Customer's household in the Low Income Home Energy Assistance Program, the Electric Assistance

Program, the Neighbor Helping Neighbor Program, the Link-Up and Lifeline Telephone Assistance Programs, their successor programs or any other federal, state or local government program or government funded program of any social service agency which provides financial assistance or subsidy assistance for low income households based upon a written determination of household financial eligibility. Reference Current Rule Puc 1202.10.

- (h) "Gross utility revenue" means revenue earned by the VSP from New Hampshire Customers for voice service. Gross utility revenue includes payphone revenues. When a VSP offers a combination of voice services and non-VSP services such as Internet or video for a single price, the gross utility revenue portion shall be calculated based on the prices at which the voice services are offered on a standalone basis. If the VSP does not offer the voice services on a standalone basis, the calculation shall be based on the prices at which the largest ILEC in the state offers such services. EFFECTIVE DATE. This definition will apply after the effective date of legislation authorizing the NHPUC to expand its authority to assess entities using the administrative services of the PUC and/or the OCA pursuant to RSA 363-A. Until that time the definition of "gross utility revenue" includes all interstate and intra-state revenues.
- (i) "Late payment" means any payment made to the VSP or its authorized agent after the Due Date printed on the bill. Reference Current Rule Puc 1202.11
- (j) "Medical Emergency" means a situation where a VSP Customer or member of the Customer's household has a physical or mental health condition that would become a danger to the Customer's or household member's physical or mental health in the absence of VSP service as certified to the VSP by a licensed physician, advanced practice registered nurse, physician's assistant or mental health practitioner. Reference Current Rule Puc 1202.12
- (k) "Termination" means the action which permanently closes a Customer account. Reference Current Rule Puc 1202.16

The following sections are proposed to be included with similar sections of Staff's proposal.

II. SERVICE PROVISIONS, Reference Current Rule PART Puc 1203

The VSP shall not deny service to any otherwise qualified applicant based upon any of the following characteristics: (1) Income; (2) Home ownership; (3) Race; (4) Color; (5) Creed; (6) Gender; (7) Marital status; (8) Age, with the exception of unemancipated minors; (9) National origin; or (10) Disability.

A. Information to Customers. Reference Current Rule Puc 1203.02

(j) Each VSP shall provide notice on or with Customer bills once a year regarding medical emergency certification. The notice shall be consistent with this statement: "MEDICAL EMERGENCY- If you believe that a medical emergency exists in your home or would exist if your service were disconnected, you may be protected from disconnection. Please contact us at [insert telephone number of the VSP or Social Service Agency] for more information."

B. Deposits. Reference Current Rule Puc 1203.02

(a) As a condition of new residential service, a VSP may require a deposit, or a written guarantee or direct debit account as provided for in (i) below, in the following circumstances:

(1) When the Customer has an undisputed overdue balance, incurred within the last 3 years, on a prior account with the VSP.

(2) When the VSP has disconnected the Customer's service within the last 3 years because the Customer interfered with, or diverted, the service of the VSP situated on or about the Customer's premises; or

(b) A VSP shall not require a residential Customer to make a deposit or furnish a guarantee as a condition of new or continued service based upon income, home ownership, residential location, race, color, creed, gender, marital status, age, national origin or disability.

(c) A Customer may request a Conference with the commission staff within 7 calendar days from receipt of the VSP's request for a deposit if he/she is dissatisfied with a VSP's request for deposit.

(d) Service disconnections shall be delayed pending commission resolution of the Customer's request for a Conference.

(e) As part of any deposit request, the VSP shall inform the Customer, orally and in writing, of his/her right to request a Conference

C. Payment Arrangements. Reference Current Rule Puc 1203.07

(a) When a residential Customer is unable to pay the total arrearage due, the VSP shall continue to provide Basic Service to the Customer if the Customer agrees to a payment arrangement.

(b) When a residential Customer is unable to pay the total arrearage due and the VSP has been notified that a Medical Emergency exists, the VSP shall continue to provide Basic Service to the Customer if the Customer agrees to a payment arrangement wherein additional flexibility is built into the payment arrangement,

including but not limited to negotiating a flat monthly payment, for application to both the arrearage and the Customer's current and future bills.

(c) The VSP shall confirm all payment arrangements in writing and issue a copy to the Customer by mail or by hand within 5 business days of the date the arrangement is made. The purpose of written confirmation shall be to assure the Customer of an opportunity to review and verify the terms of the payment arrangement.

(d) Written confirmation shall include a statement that:

(1) Failure to comply with the payment arrangement can result in disconnection without further notice; and

(2) The Customer can contact the commission's consumer affairs division if the Customer disagrees with the confirmation.

(e) The VSP shall not disconnect any Customer for failure to comply with a payment arrangement which has not been timely confirmed in writing and received by the Customer.

D. Complaints by Customers. Reference Current Rule Puc 1203.09

(a) Each VSP shall make a full and prompt investigation of Customer complaints regarding Basic Service made either directly to the company or through the commission.

(b) A VSP shall keep a record of complaints received for at least 2 years.

(c) The record of each complaint shall show:

(1) The name, address, and telephone number, if known and available, of the complainant;

(2) The date and character of the complaint; and

(3) The resolution of the complaint, if any.

(d) Pursuant to RSA 365:2, the commission shall send to the VSP a copy of each applicable written complaint it receives.

E. Social Service Assistance. Reference Current Rule Puc 1203.14

(a) The VSP shall provide to its Customers who are experiencing difficulty in paying VSP bills the names and addresses of social service organizations which provide possible assistance with the payment of VSP bills;

(b) Notice of disconnection shall not be sent to any Customer receiving assistance with the payment of his or her VSP bill from a social service organization unless the VSP has determined that the Customer's assistance from the organization has been exhausted or that the organization has failed to make payments as agreed.

F. Denial of Service Reference Current Rule Puc 1203.15.

(a) A VSP shall not deny new residential VSP service to any applicant with whom either:

(1) A reasonable payment arrangement can be made; or

(2) The VSP has a current payment arrangement.

G. Disconnection Reference Current Rule Puc 1203.16.

(a) Upon receipt of the notice of disconnection, a Customer may request and the VSP shall grant a meeting either in person or by electronic means prior to the proposed date of disconnection.

(b) The VSP shall make a memorandum regarding the outcome of each meeting. Should a Conference with the commission staff be requested, the VSP shall forward a copy of the memorandum to the commission and to the Customer.

(c) During the discussion, the VSP shall inform the Customer of the Customer's right to request a Conference with the commission staff if the Customer is dissatisfied.

(d) If a Customer requests a Conference with the commission staff, the VSP shall continue Basic Service to the Customer until such time as the commission staff determines whether the disconnection is justified.

H. Conference to Mediate Complaints Other Than Disconnection Complaints.
Reference Current Rule Puc 1203.17.

(a) A Conference may be held between and among the Customer, the VSP and the commission's consumer affairs division when prior discussion between and among the aforementioned parties have failed to yield a satisfactory resolution to the complaint.

(b) A Conference may be held at the request of the Customer, VSP or commission staff.

(c) The VSP shall inform the Customer of his/her right to request a conference with the commission staff.

(d) A Conference shall be scheduled at the convenience of the Customer during normal business hours but shall be held no more than 15 business days from the date of the request.

(e) A report of the outcome of the Conference shall be prepared by the commission staff and provided to all parties within 10 business days of the conference.

(f) If the VSP or the Customer does not agree with the outcome of the conference, the party not in agreement may request a hearing before the Commission.

(g) The VSP shall not disconnect service for non-payment of any disputed amounts until final resolution of the Conference or hearing.

(h) Upon approval by the commission of disconnection, the VSP shall provide notice to the Customers prior to disconnecting service.

(i) Upon being notified of the existence of a Medical Emergency the VSP shall inform the Customer in writing of the following:

(1) The Customer's continuing obligation to pay for services;

(2) The requirement to enter into and comply with a payment arrangement as a condition of the medical emergency certification;

(3) That failure to comply with any payment arrangement entered into with the VSP will result in disconnection of service;

(4) The option to designate a third party contact for communications with the VSP regarding billing and other matters related to the Customer's account;

(5) The Customer's responsibility to renew any medical emergency certification on a timely basis to ensure continued service; and

(6) The need for the Customer to plan for power outages that might occur.

I. Disconnection of Service. Reference Current Rule Puc 1203.15.

(a) A VSP may provide notice of disconnection of service, to a residential Customer, and may subsequently disconnect such service in conformance with this section, only if:

(1) The Customer has failed to pay any bill or deposit request, not disputed in good faith, within 30 days of the bill date, unless the Customer has established payment arrangements;

(2) The Customer has failed to abide by the terms of a written payment arrangement entered into;

(3) The Customer has failed to pay the bill for service or enter into a payment arrangement for the bill for service on or before the due date printed on the bill; or

(b) A VSP shall not disconnect a Customer if:

(1) The Customer's unpaid bill results from charges for unregulated services including, but not limited to, charges for telephone directory advertising or telephone merchandise or equipment sales;

(2) The VSP bills for service in advance and the service has not yet been provided; or

(3) The VSP has, within the preceding 60 days, received that a Medical Emergency exists at the location or would result from the disconnection.

(c) A VSP which intends to terminate service of a Customer with a Medical Emergency currently certified pursuant to this section for failure to enter into or comply with the terms of a payment arrangement pursuant to (g)(3) above, shall notify the commission no fewer than 5 business days prior to termination

J. Notice of Disconnection. Reference Current Rule Puc 1203.17.

a) A VSP shall not disconnect the Basic Service of any Customer unless the VSP sends the Customer written notice of the VSP's intention to disconnect, mailed at least 14 days in advance of the date of the proposed disconnection.

(b) Any disconnect notice which a VSP sends to a Customer pursuant to this section shall set forth in clear, concise and conspicuously printed words, the following information:

(1) The name and mailing address of the Customer;

(2) The account number;

(3) The date scheduled for disconnection of service;

(4) The reason for the disconnection of service including the overdue amount;

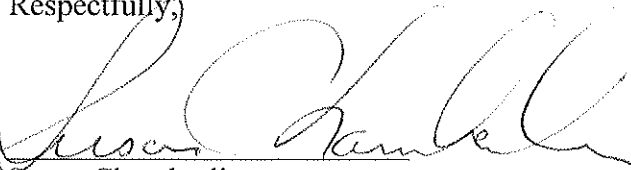
- (5) The possible consequences of disconnection, such as deposit requirement, reconnection fee, and/or any other similar consequences;
- (6) The address and telephone number at which the Customer may contact the VSP;
- (7) The toll-free telephone number of the commission's consumer affairs division, which is: 1-800-852-3793;
- (8) The method by which the Customer may question or contest the disconnection notice, preceded in conspicuous type by the words "Important Notice--Your Rights"; and

K. Puc 413.03 Emergency Operations, Reference Current Rule Puc 413.03

- (a) An ILEC shall establish plans and procedures and issue instructions to its employees and agents to be followed in the event of an emergency in order to prevent or mitigate interruptions or impairment of telephone service.
- (b) The preparations required by (b) above shall include plans and procedures for operations under extreme, severe or adverse conditions, such as natural disasters, strike, labor unrest, civil unrest or supplier disruption.
- (c) The plans and procedures established under (c) above shall be made available to the commission, on a confidential basis, upon request.

The OCA thanks the Commission for the opportunity to present these comments and wish to express our appreciation for the Commission Staff's thorough and thoughtful efforts in drafting the proposed rules.

Respectfully,

A handwritten signature in cursive script, appearing to read "Susan Chamberlin", written over a horizontal line.

Susan Chamberlin
Consumer Advocate