**65-407 PUBLIC UTILITIES COMMISSION**

**Chapter 201: PROVIDER OF LAST RESORT SERVICE QUALITY**

**SUMMARY:** This Chapter establishes the service quality indicators and standards for providers of Provider of Last Resort (POLR) service. It also describes the requirements and procedures governing Commission investigations regarding failures to meet the service quality standards and penalties, rebates or rate reductions.

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**§1 PURPOSE AND APPLICABILITY**

 **A. Purpose.** The purpose of this Chapter is to establish the service quality indicators and standards for providers of Provider of Last Resort (POLR) service. This Chapter also describes the requirements and procedures governing Commission investigations regarding failures to meet the service quality standards and the penalties, rebates or rate reductions that the Commission may impose for failure to meet the service quality standards.

 **B. Applicability.** This Chapter applies to all POLR service providers in Maine.

**§2 DEFINITIONS**

**A. Incumbent Local Exchange Carrier.** “Incumbent Local Exchange Carrier” has the same meaning as in 47 U.S.C. section 251, subsection h.

**B. Investigable Failure.** "Investigable Failure" means the failure of a Price Cap ILEC Service Provider to meet the same service quality metric for any two consecutive quarters.

**C. Non-Price Cap ILEC.** "Non-Price Cap ILEC is an Incumbent Local Exchange Carrier that is not a Price Cap Incumbent Local Exchange Carrier.

**D. Price Cap ILEC.** "Price Cap ILEC" has the same meaning as "Price Cap Incumbent Local Exchange Carrier" in 35-A M.R.S., section 7102, subsection 6-A.

**E. Provider of Last Resort Service or POLR Service.** “Provider of Last Resort Service:” or "POLR Service" has the same meaning as in Title 35-A, M.R.S. section 7201, subsection 7.

**F. Service Provider.** “Service Provider” has the same meaning as in Title 35-A, M.R.S. section 7201, subsection 8.

**G. Service Quality Indicators.** “Service Quality Indicators,” also referred to as service quality metrics, means areas of service quality that may be measured.

**H. Service Quality Standards.** “Service Quality Standards,” also referred to as service quality benchmarks, means service goal baselines that must be met by POLR service providers.

**§3 INFORMATION FOR QUARTERLY REPORTS FOR NON-PRICE CAP ILECS**

Service quality reports required pursuant to Section 5 of this Chapter shall be based on service to all voice customers who receive service from the Non-Price Cap ILEC Service Provider.

**§4 SERVICE QUALITY INDICATORS (METRICS) AND SERVICE QUALITY STANDARDS (BENCHMARKS) FOR NON-PRICE CAP ILECS**

Non-Price Cap ILEC Service Providers shall report to the Commission on the five service quality metrics established in Section 4(C) of this Chapter. The benchmarks represent a reasonable and adequate level of service quality for customers.

**A. Adjustment of Benchmarks.** The Commission may adjust the Service Quality Standards for Non-Price Cap ILEC Service Providers in a future rule-making.

**B. Service Provider Performance.** Non-Price Cap ILEC Service Providers' actual reported performance for each metric must be equal to or better than the benchmark. Actual performance is considered equal to or better than the benchmark if the reported result is less than or equal to the benchmark. If performance fails to meet the benchmark, the Commission may open an investigation and may impose a penalty, rebate or rate reduction pursuant to Sections 6 and 7 below.

**C. Description of Service Quality Metrics and Required Benchmarks.** The following service quality metrics and corresponding benchmarks are applicable to Non-Price Cap ILEC Service Providers:

 1. **Percentage of Installation Appointments Not Met (Company Reasons)**

a. **Metric Description.** This metric measures the percent of total completed orders for which the service provider did not meet the committed due date because of Non-Price Cap ILEC Service Provider reasons. The actual result is calculated by dividing the number of service appointments for which the due date was not met by the total number of scheduled appointments. When an appointment is not met due to other than Non-Price Cap ILEC Service Provider reasons, including a rescheduling of the appointment at the request of the customer, the appointment is not considered a miss for the purposes of service quality reporting.

 b. **Benchmark:** .975%

 2. **Average Delay Days for Missed Appointments**

 a. **Metric Description.** This metric measures the average number of business days between the order due date and work completion date for orders missed due to Non-Price Cap ILEC Service Provider reasons. The result for this metric is calculated by summing the number of business delay days between the appointment due date and the completion date, and then dividing that sum by the number of missed appointments.

 b. **Benchmark:** 8.91 days

 3. **Network Trouble Report Rate**

 a. **Metric Description.** This metric measures the number of customer reported network troubles per 100 lines within the calendar month. The result is calculated by dividing the number of customer trouble reports to the Non-Price Cap ILEC Service Provider by the number of the Non-Price Cap ILEC's access lines divided by 100. Troubles that are not network related are not included.

 b. **Benchmark:** 1.52%

 4. **Percentage of Network Troubles Not Resolved Within 24 Hours**

 a. **Metric Description.** This metric measures the percentage of network-related service troubles reported to the Non-Price Cap ILEC Service Provider that were not cleared within 24 hours. The metric is calculated by dividing the number of customer trouble reports that are not resolved within 24 hours by the total number of network-related customer trouble reports.

b. **Benchmark:** 12.35%

 5. **Service Outages**

 a. **Metric Description.** This metric measures service outages of at least 500 access lines caused by the same occurrence that are out of service over five minutes. This metric is calculated by summing all of the occurrences where at least 500 customers are out of service for at least five minutes. The actual reported result is the cumulative number of outages over the most recent twelve month reporting period.

 b. **Benchmark:** 234

**§5 NON-PRICE CAP ILEC QUARTERLY REPORT FILINGS TO THE COMMISSION**

1. **Content.** Non-Price Cap ILEC Service Providers shall track the service quality metrics established in Section 4(C) of this Chapter on a monthly basis. Each quarterly report shall include the results for each month of the quarter, the quarterly average result, the quarterly results for each of the three prior quarters, and the rolling four-quarter average.
2. **Filing Quarterly.** Non-Price Cap ILEC Service Providers shall file reports quarterly with the Commission, reporting the numerator and denominator necessary to calculate the results for those metrics that are rates, percentages or averages for each of the three months. For the metric that is a cumulative measurement, the Non-Price Cap ILEC Service Provider shall report the number of outages for each month of the quarter. Quarterly reports shall be due within 28 days of the end of a calendar quarter.
3. **Additional Content Required For Failure to Meet the Benchmark(s)**. Within ten business days from the filing of a quarterly report any Non-Price Cap ILEC Service Provider that fails to meet one or more of the service quality benchmarks established in Section 4(C) of this Chapter shall file with the Commission an explanation of why it failed to meet the benchmark(s). With its explanatory filing, the Non-Price Cap ILEC Service Provider may also include any reasons and/or mitigating circumstances for why the Commission should not open an investigation into the failure to meet the service quality benchmark(s) pursuant to Section 6 of this Chapter.

**§ 6 COMMISSION INVESTIGATION OF NON-PRICE CAP ILECS**

 Upon reviewing the reports and any other information filed pursuant to Section 5 of this Chapter, the Commission may open an adjudicatory investigation into the failure by a Non-Price Cap ILEC Service Provider to meet any of the service quality benchmarks established in Section 4(C) of this Chapter.

**§ 7 PENALTIES, REBATES OR RATE REDUCTIONS FOR NON-PRICE CAP ILECS**

 The Commission may impose penalties or require a Non-Price Cap ILEC Service Provider to provide rebates or rate reductions if the Commission finds, after an investigation pursuant to Section 6 of this Chapter, that a Non-Price Cap ILEC Service Provider has failed to meet the service quality benchmarks established in Section 4(C) of this Chapter. The penalty provisions of 35-A M.R.S. section 1508-A shall apply as described below.

 **A. Amount.** The amount assessed after any individual investigation shall not exceed amounts authorized pursuant to 35-A M.R.S. section 1508-A(1).

 **B. Considerations Regarding the Amount.** In determining the amount of a penalty, rebate or rate reduction the Commission shall take into account the following factors:

1. the severity of the Non-Price Cap ILEC Service Provider's failure to meet the service quality benchmark, including the intent of the Non-Price Cap ILEC Service Provider and the nature, circumstances, extent, and gravity of the failure;
2. the Non-Price Cap ILEC Service Provider's history including the number of quarters that the Non-Price Cap ILEC Service Provider successfully met or failed to meet the service quality benchmark;
3. the amount necessary to deter future failures to meet the benchmark, taking into consideration the size of the Non-Price Cap ILEC Service Provider, as measured by its revenues, assets or number of customers;
4. the amount necessary to adequately compensate customers of the Non-Price Cap ILEC Service Provider for any degradation of service;
5. the Non-Price Cap ILEC Service Provider's good faith attempts to comply with the benchmark;
6. steps the Non-Price Cap ILEC Service Provider has taken to ensure future compliance with the benchmark; and
7. such other matters as justice requires.

**§ 8 INFORMATION FOR QUARTERLY REPORTS FOR PRICE CAP ILECS**

Service quality reports required pursuant to Section 10 of this Chapter shall be based on rolling four-quarter averages, in the areas in which the Price Cap ILEC is the Service Provider.

**§ 9 SERVICE QUALITY INDICATORS (METRICS) AND SERVICE QUALITY STANDARDS (BENCHMARKS) FOR PRICE CAP ILECS**

Price Cap ILEC Service Providers shall report to the Commission on the four service quality metrics in Section 9(B) of this Chapter. Reports submitted to the Commission by Price Cap ILEC Service Providers are confidential and not public records under 1 M.R.S. section 402(3) and may not be disclosed to any person outside the Commission, except as provided in Section 9(A) of this Chapter.

**A. Service Provider Performance**. Price Cap ILEC Service Providers’ actual reported performance for each metric must be equal to or better than the benchmark. Actual performance is considered equal to or better than the benchmark if the reported result is less than or equal to the benchmark. The failure of a Price Cap ILEC Service Provider to meet the same service quality metric for any two consecutive quarters constitutes an "Investigable Failure," and the results for this service quality metric for the two consecutive quarters are no longer confidential and become public records. The Commission shall investigate all Investigable Failures by a Price-Cap ILEC Service Provider. If the Commission concludes after investigation that the failure to meet a service quality metric is due to factors within the control of the Price Cap ILEC Service Provider, the Commission shall, by Order, direct the Price Cap ILEC Service Provider to take such steps as the Commission determines necessary to meet the metric. If the Price Cap ILEC Service Provider fails to comply with the Commission's Order, the Commission shall impose a penalty in accordance with 35-A M.R.S. section 1508-A(1)(A) in an amount sufficient to ensure compliance with that Order.

**B. Description of Service Quality Metrics and Required Benchmarks.** The following service quality metrics and corresponding benchmarks are applicable to Price Cap ILEC Service Providers:

 1. **Percentage of Installation Appointments Not Met (Company Reasons)**

a. **Metric Description.** This metric measures the percent of total completed orders for which the service provider did not meet the committed due date because of Price Cap ILEC Service Provider reasons. The actual result is calculated by dividing the number of service appointments for which the due date was not met by the total number of scheduled appointments. When an appointment is not met due to other than Price Cap ILEC Service Provider reasons, including a rescheduling of the appointment at the request of the customer, the appointment is not considered a miss for the purposes of service quality reporting.

 b. **Benchmark:** 12%

 2. **Average Delay Days for Missed Appointments**

 a. **Metric Description.** This metric measures the average number of business days between the order due date and work completion date for orders missed due to Price Cap ILEC Service Provider reasons. The result for this metric is calculated by summing the number of business delay days between the appointment due date and the completion date, and then dividing that sum by the number of missed appointments.

 b. **Benchmark:** 9 days

 3. **Network Trouble Report Rate**

 a. **Metric Description.** This metric measures the number of customer reported network troubles per 100 lines within the calendar month. The result is calculated by dividing the number of customer trouble reports to the Price Cap ILEC Service Provider by the number of the Price Cap ILEC Service Provider's access lines divided by 100. Troubles that are not network related are not included.

 b. **Benchmark:** 3%

 4. **Percentage of Network Troubles Not Resolved Within 48 Hours**

 a. **Metric Description.** This metric measures the percentage of network-related service troubles reported to the Price Cap ILEC Service Provider that were not cleared within 48 hours. The metric is calculated by dividing the number of customer trouble reports that are not resolved within 48 hours by the total number of network-related customer trouble reports.

 b. **Benchmark:** 20%

**§ 10 PRICE CAP ILEC QUARTERLY REPORT FILINGS TO THE COMMISSION**

**A. Content.** Price Cap ILEC Service Providers shall track the service quality metrics established in Section 9(B) of this Chapter on a monthly basis. Each quarterly report shall include the results for each month of the quarter, the quarterly average result, the quarterly results for each of the three prior quarters, and the rolling four-quarter average.

**B. Filing Quarterly.** Price Cap ILEC Service Providers shall file reports quarterly with the Commission, reporting the numerator and denominator necessary to calculate the results for each of the three months. Quarterly reports shall be due within 28 days of the end of a calendar quarter.

**§ 11 WAIVER OR EXEMPTION**

 Upon request of any person subject to the provisions of this Chapter or upon its own motion, the Commission may, for good cause, waive any requirement of this Chapter that is not required by statute. The waiver may not be inconsistent with the purposes of this Chapter or Title 35-A. The Commission, the Director of Telephone and Water Utilities, or the presiding officer assigned to a proceeding related to this Chapter may grant the waiver.

STATUTORY AUTHORITY: 35-A M.R.S. §§ 101, 111, 7225, and 7225-A

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on June 27, 2014. It was filed with the Secretary of State on June 27, 2014 and became effective on July 27, 2014 (filing 2014-132).

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on November 18, 2016. It was filed with the Secretary of State on November 21, 2016, and became effective on November 26, 2016 (filing 2016-200).