

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-100, SUB 140

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition for Rulemaking to Revise)	
Billing and Collection Procedures for)	ORDER FURTHER REVISING
Telecommunications Companies Regarding)	RULE R12-17(c)
Local Disconnection and Toll Denial)	

BY THE COMMISSION: On February 28, 2008, the Commission issued an Order Revising Rule R12-17(c). The text of the revised rule reads as follows:

(c) Partial payments to telephone utilities. In the absence of the customer's or agent's instruction to apply the payment otherwise, partial payments will be allocated as follows: first to local service, and second to other service, except that if a partial payment is within \$1.00 of the past due amount, the payment *will* be allocated first to past due local service and second to other past due service. (Emphasis added).

The principal substantive changes from the previous Rule R12-17(c) were the more prominent role for customer preference and the removal of the terms "regulated" and "nonregulated" from the rule.¹ However, the revised rule also changed the verb "may" to "will" with respect to the allocation of payments within \$1.00 of the past due amount.

On April 1, 2008, AT&T filed a letter requesting that it be allowed to "continue with its current procedures unless the Commission has objections." Noting that the Commission's principal intent was to remove the "regulated" and "non-regulated" usage from the rule, AT&T stated that it appears that the word "will" was inadvertently substituted for the word "may" during the comment cycle. AT&T said that its procedure, in accordance with the previous rule, has been to apply the total payment to the past due amount only if the payment is equal to the past due amount. This allows all payments not equivalent to the past due amount to be applied first to local service, regardless of whether it is past due or current. This procedure is consistent with the conservative approach of preserving the customer's local service.

¹ The old rule read as follows: "(c) Partial payments to telephone utilities. Partial payments to local service providers will be allocated as follows: first to local service, second to other *regulated* services, and third to *nonregulated* service. In the event a customer or an agent of a customer makes a payment that is within \$1.00 of the past due amount and in the absence of the customer's or agent's specific instruction to apply the payment otherwise, the payment *may* be allocated as follows: first to the past due local service, second to other past due *regulated* service, and third to past due *nonregulated* service." (Emphasis added).

AT&T has discussed these procedures with the Public Staff and the Attorney General's office, and there were no objections to AT&T's continuing to process payments under the earlier procedures pursuant to the "may" language. The North Carolina Telecommunications Industry Association (NCTIA) also has no objection to the word "may" rather than "will."

WHEREUPON, the Commission reaches the following

CONCLUSIONS

In its letter AT&T asked that "it be allowed to continue with its current procedures unless the Commission has objections," but goes on to say that "the NCTIA does not object to the use of the word 'may' rather than 'will.'" While it is unclear whether AT&T is seeking a waiver or a rule revision, the Commission believes that the preferable route to follow would be a rule change re-establishing the verb "may" in the last clause.

Accordingly, after careful consideration, the Commission concludes that in light of the inadvertency in the changing of the language in the last clause of Rule R12-17(c) from "may" to "will," the complications that this inadvertent change may create in the billing systems of AT&T and the other telephone companies, and, for all practical purposes, the unanimous support of the parties for a reversion to the "may" language, the Commission concludes that good cause exists to amend Rule R12-17(c) as set forth below:

(c) Partial payments to telephone utilities. In the absence of the customer's or agent's instruction to apply the payment otherwise, partial payments will be allocated as follows: first to local service, and second to other service, except that if a partial payment is within \$1.00 of the past due amount, the payment may be allocated first to past due local service and second to other past due service.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of April, 2008.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Deputy Clerk

Kc040908.01

Commissioner Robert V. Owens, Jr. did not participate.