

**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)	ORDER ADOPTING REVISIONS
Collection Procedures for Telecommunications)	TO COMMISSION RULE R12-17
Companies Regarding Local Disconnection)	AND REQUESTING FURTHER
and Toll Denial)	INFORMATION

BY THE COMMISSION: On May 7, 2007, the North Carolina Telecommunications Industry Association, Inc. (the NCTIA)¹ filed a petition with the Commission requesting revisions to Commission Rule R12-17. On May 8, 2007, the NCTIA filed a revised petition to correct certain errors in the original filing. The principal revisions to R12-17 proposed by the NCTIA are: (1) allow disconnection of an entire bundled service offering if the customer does not pay past due balances for the bundle in full; (2) streamline the partial payment process to allow local exchange companies, absent direct instruction from the customer regarding the application of partial payments, to apply partial payments in a manner calculated to more likely effect the intent of the subscriber making the partial payment; (3) allow bundled services to appear on the bill as a single charge without splitting the bundle price into specific regulated and non-regulated component parts for billing; (4) provide more flexibility as to billing statements rendered by ILECs as well as CLPs; and (5) allow communication by bill message, direct mail or e-mail to bundled customers in addition to the currently required use of a bill insert.

On May 9, 2007, the Commission issued an *Order Seeking Comments*. The Order requested that those who commented upon and proposed amendments to existing rules shall provide a marked-up copy and a "clean copy" of such proposals and/or amendments.

On May 10, 2007, the Commission issued an Order instructing the parties to direct their comments and reply comments to the revised petition instead of the original

¹ The NCTIA regulated ILEC members include Citizens Telephone Company, CT Communications, Inc., Ellerbe Telephone Company, Embarq, Lexcom Telephone Company, MebTel Communications, North State Communications, Pineville Telephone Company, Randolph Telephone Company, TDS Telecom, Verizon South, Inc., and Windstream Communications. Nonregulated members of the NCTIA include Atlantic Telephone Membership Corporation, Piedmont Telephone Membership Corporation, Randolph Telephone Membership Corporation, Skyline Telephone Membership Corporation, Star Telephone Membership Corporation, Surry Telephone Membership Corporation, Tri-County Telephone Membership Corporation, Wilkes Telecommunications and Yadkin Valley Telephone Membership Corporation.

petition upon the same schedule and in the manner established in the May 9, 2007, *Order Seeking Comments*.

THE PETITION

The NCTIA stated that it has held several meetings with members of the Public Staff and a member of the Attorney General's staff regarding the proposed changes outlined in the petition. The NCTIA noted that Rule R12-17 had been adopted by the Commission in 2000 and that there have been significant changes in the telecommunications industry since that time. The NCTIA also observed that there have been several minor revisions to various parts of Rule R12-17 since 2000.

The most significant proposed changes are as previously enumerated. The NCTIA also submitted an attachment which proposed other minor revisions to the text of Rule R12-17. The NCTIA addressed the following points in support of its petition.

The first revision proposed by the NCTIA allows disconnection of an entire bundled service offering for non-payment. Currently, Rule 12-17(b) establishes certain principles governing disconnection of local service or bundled local service to residential customers for nonpayment of past due charges. The NCTIA proposed revisions to Subsection(b)(3) to revise the information required to be provided in a disconnect notice to customers who subscribe to bundled service offerings concerning their option to subscribe to unbundled local service. The proposed revisions provide a means for a customer subscribing to a bundled service offering to elect to convert to unbundled local service and make a partial payment on his or her account, thereby avoiding disconnection of local service for non-payment.

Second, the NCTIA addressed the application of partial payments. The NCTIA noted that the current rule requires that, when a partial payment is received, the ILEC must apply the partial payment first to local service, second to other regulated services, and third to non-regulated service (e.g., toll, voice mail, etc.). 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 instructions to apply the payment otherwise, the payment may be allocated as follows: first to past due local service, second to other past due regulated service, and third to past due non-regulated service. The NCTIA stated that the experience of its members is that customers making partial payments typically have an expectation that, when they make a payment on a past due balance, that entire payment will be applied to their past due balance. While that customer may also be subject to "current" charges (i.e., charges not yet past due), those current charges are often either not yet due or past due when the partial payment is made. As a result, the customer often expects that 100% of his or her partial payment will be applied to all of the services associated with the past due balance. While the customer has to eventually bring his or her account current by making full payment, most customers expect that they can maintain service and buy themselves additional time to bring their account current by making a partial payment on the past due balance owed.

The NCTIA stated that its proposed revision to Rule 17-12(c) provides that the customer's partial payment will be applied first to past due local service, and then to other past due services. Furthermore, in the event that the customer has unpaid current charges, the customer will receive a separate past due notice with regard to those current charges if they are not paid on a timely basis.

In support of its proposed changes, the NCTIA argued that consumers have migrated toward a credit card mentality with regard to their telecom bills. They believe when a consumer sees a statement on a bill that a certain minimum amount must be paid in order to avoid local service disconnection, the consumer often mistakenly views this as being analogous to the statement on a credit card bill as to the minimum amount that must be paid for that month to keep the account current. The NCTIA stated that it believes that customers often do not understand that, while a partial payment may allow them to maintain local service, they may lose other services such as voice mail or toll service if they do not pay the full balance due.

The NCTIA further observed that the proposed procedure for application of partial payments is being followed in multiple states today by NCTIA member affiliates with operations in other states. Accordingly, customers seem to expect that payments will first be posted to past due charges and then to local service.

The NCTIA also believes that it is unlikely that the proposed revised rules will operate to deny service or access to telecommunication services to North Carolina consumers. Thus, as a practical matter, even with the temporary loss of wireline service, should it occur, few North Carolina residents are truly subject to loss of access to telecommunication service given the presence of wireless service.

Third, the NCTIA argued that billing for bundled service offerings should be simplified. The NCTIA noted that bundles may include services provided by wireless companies, VoIP providers, CLPs, cable or satellite companies, or an optional ILEC bundled offering.

The NCTIA also believes that changes to R12-17 are needed to eliminate regulatory barriers that prevent ILECs from having billing parity with other competing providers of the same or similar services. Rule R12-17(i) currently requires ILECs to separate regulated and non-regulated charges on their billing statements. The NCTIA pointed out that optional bundles typically offer both regulated and non-regulated services at a single bundled price. However, under the current rule, the bundled price cannot be shown on the bill because the billed services must be broken out into regulated and non-regulated component parts. The proposed revision to R12-17(i) is designed to eliminate that requirement and to reduce consumer confusion concerning monthly billings.

The NCTIA noted that, in order for bundled customers to determine the bundle charge on a current ILEC bill, it is necessary for them to total numerous line items which can include both charges and credits, which can create consumer confusion. The

NCTIA suggested that if ILECs can eliminate this confusion by showing the bundled price for the bundle that the consumer has selected, the result will be an increase in customer satisfaction resulting from a decrease in customer confusion.

According to the NCTIA, a focus group study has been conducted regarding billing format issues by an NCTIA member. Consumers were requested to provide ideas for an ideal telephone bill format. The NCTIA stated that the majority of the participants indicated a preference for a phone bill that resembles a credit card bill with a simple format including a list of charges, the total amount due, and the due date.

The NCTIA further suggested that the currently required distinction between regulated and non-regulated services is of limited value in the industry and of no practical value to consumers. First, the distinction means less now in the telecommunications industry, as a service that may be unregulated for one ILEC (i.e., such as a price regulated ILEC), may continue to be regulated for a rate-of-return ILEC, and may be entirely unregulated for a CLP. Second, the distinction is all but meaningless to consumers who generally have no appreciation or understanding of the difference between regulated and non-regulated services.

An additional and coincidental benefit to consumers from the proposed revised format for billing for bundled offerings through a single charge is a product of the United States Supreme Court's recent ruling regarding excise tax charges on certain telecommunications services. As noted by the NCTIA, federal excise taxes are charged on local telecommunications service if the services are billed separately (i.e., a separate charge for local service). However, that tax is not charged on a bundled service offering which includes basic local service, so consumers subscribing to a bundled service offering would receive a tax savings.

The NCTIA also argued that the length of an ILEC's bill is affected by the requirement to separately present regulated and non-regulated charges, even for customers who subscribe to bundled service offerings. Approval of the single charge billing format for bundled charges will result in simpler bills with fewer pages and should alleviate some customer confusion. In addition, the NCTIA commented that approval of the bundled bill format will result in requiring less paper and postage, which is a cost saving benefit to companies, an ecological benefit in terms of less wasted paper, and a customer benefit in the form of a less confusing bill and less paper to throw away.

Fourth, the NCTIA proposed changes to R12-17(i)(2) regarding the content of the billing statement as shown in the markup of Attachment A to the petition. The NCTIA stated that the proposed changes, which most prominently modify the requirement to show non-regulated charges on a separate page or in a separate section of the bill, will allow the ILECs to remain in compliance with the Commission's rules and the FCC's Truth In Billing rules, reduce customer confusion, and, in some cases, reduce the size of the telephone bill. Also, the NCTIA stated that this change will allow the ILECs to produce billing statements similar to those rendered by their competitors.

Lastly, the NCTIA stated that R12-17(i) should be amended to allow communication by bill message regarding disconnect notices, billing statements and bundled customer notification for telephone utilities. The NCTIA commented that Subsection (i)(3) provides that when a residential customer subscribes to bundled local service, the customer's first billing statement and an annual statement thereafter must include a bill insert containing a required notice as to the consequences of a failure to pay his or her carrier's bill. The NCTIA's proposed revision of this rule would allow the ILEC to provide the required notice via bill insert, direct mail, bill message or email, when affirmatively selected by the customer. The NCTIA believes that these alternative means of communicating the required notice will be just as effective as the bill insert and will provide a means of notification that customers have come to expect. The NCTIA also stated that, for ILECs who offer unbundled local service, the notice will also advise the customer that, in order to maintain local service, the customer should contact the LEC and request conversion to unbundled local service; otherwise the customer's bundled local service will be disconnected.

COMMENTS

AT&T North Carolina (AT&T): AT&T supports the concepts and practical implications of the proposed changes with one exception. The exception is the provision altering the manner in which partial payments are allocated on customers bills. According to AT&T, significant changes to AT&T's billing and collections system would be required to accommodate the proposed procedure. Furthermore, although the magnitude of the required billing system changes - e.g., timeframes, expenses, etc. - have not been quantified, it is clear that such an undertaking would require extensive resources and time for implementation. For those reasons, AT&T stated that it cannot support the proposed changes to the rules governing application of partial payments stated in Rule R12-17(c) and recommended that the existing language in Rule R12-17(c) be retained.

Attorney General: The Attorney General opposed the proposal by the NCTIA to change the way partial payments would be allocated because the current rule regarding partial payments protects local service over other services. Specifically, Rule 12-17(c) provides that, in the absence of an express instruction from the consumer to handle the payment differently, a partial payment is first allocated to local service, then to other regulated services, and then to non-regulated services. The Attorney General stated that, if the consumer specifically instructs otherwise, then the phone company must follow that instruction.

The Attorney General noted that the basic policy underlying these rules is two-fold. First, local service is an important and essential service that consumers use to communicate with friends, family, schools, doctors, and other significant people in their local community. Second, local phone service should not be put in jeopardy simply because the consumer is unable to pay unrelated charges that ended up on the local phone bill due to the ILEC's practice of billing for other parties or services. In the

Attorney General's view, customers should be able to keep their local phone service as long as they are able to pay for local phone service.

The Attorney General also pointed out that LECs sometimes bill charges that are not authorized by consumers, resulting in cramming. Before the Commission enacted the local disconnect rules, some consumers felt compelled to pay cramming charges because their local service was subject to being disconnected if they did not pay their entire bill.

Other states with local disconnection rules similar to North Carolina's have adopted similar requirements pertaining to partial payments. For instance, Rule 7.620(F) of the Vermont Public Service Board provides that "[a] carrier shall apply all payments to residential basic telephone charges first before being applied to any other portion of the bill unless written instructions from the customer, a disputed bill, or payment arrangements require otherwise." The Attorney General pointed out that the Public Utility Commission of Texas and the Maine Public Utilities Commission both have similar requirements that payments be applied first to basic local telephone service, with any remaining amounts to be applied to other services.

The Attorney General noted that other local disconnect rules that interplay with Rule R12-17(c) are Rules R12-17(i)(2)(B)-(C), which require LECs to include language on customer bills "clearly explaining the consequences of failing to pay particular charges shown on the bill" and clearly identifying those charges for which nonpayment will not result in disconnection of local service...." As a result, LECs have a section on the bill identifying the amount that the consumer must pay in order to preserve local service. The Attorney General noted that the Commission's requirements in this regard are consistent with the FCC's Truth-In-Billing rules, which require carriers to "identify on bills those charges for which failure to pay will not result in disconnection of the customer's basic local service." Order on Reconsideration, CC Docket No. 98-170 (FCC 00-111) at paragraph 1 (March 23, 2000)

The Attorney General did not believe that the NCTIA had offered a compelling argument for changing the way partial payments are allocated. The Attorney General pointed out that, under the NCTIA's proposal, a partial payment would first be allocated to "other" past due charges, such as long distance or voice mail charges, before it would be allocated to local charges. The Attorney General predicted that this would cause confusion among consumers.

Under current regulations, LECs must state a dollar amount on the bill that the consumer must pay in order to maintain local service. The Attorney General warned that, if the NCTIA's proposal is adopted and partial payments are allocated to past due "other" charges over local charges, the amount set forth on the bill that must be paid in order to maintain basic local service will no longer have any practical meaning or utility. Even if the consumer followed the instructions contained on the bill and paid the exact amount needed to maintain local service, that amount may not actually go to local service but instead would first be allocated to other past due charges, if there are any.

For example, the partial payment might first be allocated to disputed past due voice mail charges billed by the LEC on behalf of a third party.

The Attorney General also charged that the NCTIA had provided no specific support for its proposal, other than to refer to its own general and abstract beliefs about what the consumers want. The NCTIA provided no complaints or letters from consumers indicating that large numbers of consumers want the rule regarding partial payments to be changed. The Attorney General has not received complaints from consumers asking for the changes proposed by the NCTIA.

In addition to providing no specific support for its proposal, the NCTIA has not offered any evidence regarding the scope of the purported problem. It did not provide evidence showing how often consumers make partial payments or the nature and typical amount of partial payments. There has been no concrete evidence showing that the rule is not working and needs to be changed.

Nevertheless, the Attorney General saw no problem with one relatively minor aspect of the NCTIA's proposed change regarding partial payments – eliminating the language in R12-17(c) referring to non-regulated service. The Attorney General stated that it would not object to a rule change that would give a carrier the option to allocate partial payments as follows: "First to local service and second to other services." However, the Attorney General stated that the NCTIA proposal goes well beyond this by giving priority to past due charges over local charges.

In summary, the Attorney General stated that the NCTIA's proposal regarding partial payments is inconsistent with the underlying policies of the local disconnect rules because it would give priority to past due "other" services over local service. Furthermore, the NCTIA has not provided any compelling or specific reasons for the Commission to change the method by which partial payments are allocated. Therefore, the Attorney General does not recommend that the Commission adopt the NCTIA's proposed change to R12-17(c).

The Public Staff: The Public Staff stated that it met on several occasions with an industry work group from the NCTIA to discuss the proposed changes. Those discussions resulted in proposed language that, in a majority of instances, was agreeable to both parties. The Public Staff stated, however, that agreement was not reached in all areas.

The current rule requires that partial payments be allocated "first to local service, second to other regulated services, and third to non-regulated service." The NCTIA stated that it believes customers "have an expectation that when they make payment on a past due balance, that entire payment will be applied to their past due balance."

The Public Staff acknowledged the current rule is biased in favor of protecting the customer's local service and argued that this is purposeful. The original thrust of this docket was to protect a customer's access to basic local exchange service, and that has

to remain the overriding purpose of this rule. After many attempts to construct language to address company concerns, while protecting the consumer's access to basic local service, the Public Staff concluded that a balance between the two parties' interests could not be achieved.

The Public Staff argued that the language proposed by the NCTIA for partial payments tilts the balance too far in favor of the companies and that this change increases the likelihood that the customer's basic local exchange could be interrupted. The Public Staff concluded that it was opposed to this aspect of the NCTIA petition and recommended that the Commission not amend Rule R12-17(c).

Rule R12-17(i)(1)(A)(iii) provides details on information which is required to be included in disconnect notices sent to customers of bundled service, including both local service and non-regulated services. The Public Staff pointed out that these requirements vary depending on whether the serving local telephone exchange company offers customers the option of purchasing stand-alone local exchange service. The current rule requires companies offering unbundled local service to explain the customer's option of maintaining local service by paying the past due balance for regulated local service only and to specify the minimum amount the customer is required to pay to maintain his or her local service only. However, as noted by the Public Staff, the NCTIA's proposed language also strikes the requirement that the disconnect notice provide the customer with the amount the customer is required to pay to maintain unbundled local service. The Public Staff stated that it believes that stating the amount which must be paid to maintain local service in the disconnect notice is vital and should not be eliminated.

The Public Staff stated that, after considerable discussion with representatives from the industry work group, it is not opposed to the other changes proposed by the NCTIA. The Public Staff believes the proposed changes in billing for bundled services will enable the companies to bill for bundled offerings so that federal excise tax will not apply to such offerings. Overall, the Public Staff stated that it believes the proposed changes will allow the companies to implement bills that will be more concise and easier to understand, which should lead to fewer billing questions and increased customer satisfaction.

REPLY COMMENTS

The NCTIA stated that the comments of the Public Staff, the Attorney General, and AT&T all concern only one of the five significant changes to R12-17 outlined in the petition – specifically, the proposed revision of R12-17(c) concerning the application of partial payments. The NCTIA stated that, since the concerns expressed by the Public Staff and the Attorney General are different from those expressed by AT&T, it would respond to both sets of comments separately. Also, the NCTIA submitted as attachments to its reply comments affidavits to formally document much of the anecdotal information regarding the issue of partial payments as discussed with the Public Staff and the Attorney General as to the rationale to revise R12-17(c).

The NCTIA also observed that, because of the extent to which North Carolinians subscribe to wireless service, it is unlikely that the operation of the proposed rule revisions will deny any consumer access to telecommunications services. The NCTIA argued that the data it submitted make it clear that, not only has wireless service surpassed wireline service in terms of popularity, but also that LEC customers are very likely to have wireless service in addition to wireline service. Furthermore, this means that, even if their wireline service was terminated, customers would still be able to communicate via their wireless service.

The NCTIA also opposed the Public Staff's suggestion that disconnect notices should include a statement as to the amount needed to be paid to maintain local service. The NCTIA believes that the provision of this information tends to lead to customer confusion as to how much must be paid to maintain all of the customers' current services. The NCTIA stated that this is particularly the case with regard to those customers subscribing to bundled service offerings.

Lastly, the NCTIA stated that, while its members understand and appreciate AT&T's interest in avoiding the expense associated with revising processes to accommodate any revision in Commission rules, it is also true that the current rule increases their operating costs. This is the case with Embarq, where Embarq maintains a manual process, which modifies Embarq's standard processes and procedures so as to adhere to the current rule for processing partial payments.

CONCLUSIONS

After careful consideration, the Commission concludes the following:

First, the Commission concludes that whether Rule R12-17(c) should be amended as recommended by the NCTIA should be the subject of further study and comment. This question is sometimes referred to as the "partial payment issue" and pertains to the question of what the consequences are to the customer who does not pay his or her bill in full on a month to month basis.

Rule R12-17(c) currently reads:

(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 past due local service, second to other past due regulated service, and third to past due nonregulated service.

The NCTIA's proposed amendment to Rule R12-17(c) reads:

Partial payments to telephone utilities. In the absence of the customer's instruction to apply the payment otherwise, partial payments to local service providers will be allocated as follows: first to past due bundled or unbundled local service, then to past due other services, then to current bundled or unbundled local service and then to current other services.

The chief difference between the present rule and the NCTIA's amendment is that the current Rule R12-17(c) gives priority "first to local service"—that is, past due local service followed by current local service—while the NCTIA's proposal grants first priority to past due local service, followed by past due other services, and *then* to "current bundled or unbundled local service." The NCTIA's proposal also uses the phrase "bundled or unbundled," while the current rule does not.

The NCTIA's proposed amendment to Rule R12-17(c) was easily the most controversial issue in this docket. In support of its position, the NCTIA cited to customer surveys which it said showed that customers "have migrated toward a credit card mentality," in which they view the minimum amount that must be paid in order to avoid local service disconnection as analogous to the statement on a credit card bill as to the minimum amount that must be paid for that month to keep the entire account current. The NCTIA asserted that customers do not understand that, while a partial payment may allow them to maintain local service, they may lose other services like voice mail or toll service if they do not pay the full balance due. This expectation has created customer confusion. The NCTIA also pointed out that its proposed procedure is being followed in a number of other states and there have been "no complaints in those states when posting payment in the manner proposed by the NCTIA." The NCTIA did not believe it likely that the revised rules would operate to deny services to North Carolina consumers, since NCTIA members are in the business of selling telecommunications services to customers and, in any event, customers who lose wireline service have other alternatives, such as wireless. The NCTIA submitted affidavits tending to show that partial payment situations leading to cut-off are, in fact, relatively infrequent. Lastly, the NCTIA argued that AT&T's opposition to its amendment to Rule R12-17(c) was based solely on its desire to avoid the expense of changing over to a new system and did not warrant denial of the proposed revision.

The Public Staff and the Attorney General disagreed with the approach advocated by the NCTIA. The Public Staff and Attorney General argued that the policy of assigning top priority to the distribution of partial payments to local service should be maintained because, otherwise, the possibilities of local service disconnection would be increased. Giving priority to local service is an intentional policy and an important one. The Attorney General, in particular, cited to the rules of other states that have adopted similar requirements to North Carolina's pertaining to partial payments—for example, those of Vermont, Texas, and Maine. The Attorney General also criticized what it saw as lack of proof for the NCTIA's proposal, "other than to refer to its own general and

abstract ‘beliefs’ about what consumers want.” No complaints or letters from consumers pressing for such a claim were provided, and the Attorney General has certainly received none.

The Commission shares the view expressed by the Public Staff and the Attorney General that preservation of access to local service is an important priority. In addition, the Commission is aware that major changes have occurred in the telecommunications marketplace since 2000, when Rule R12-17 was promulgated. In particular, there is an increasing emphasis on bundled as compared to unbundled or stand-alone offerings. Furthermore, the Commission acknowledges that Rule R12-17, in its current format, requires compliance with expressly-stated preferences concerning that manner in which partial payments should be applied. An ultimate question, about which the parties have not directly opined, is how much weight the Commission should give to the policy of preserving access to local service as compared to the policy of honoring customer preferences in developing a default rule governing the assignment of partial payments among the various portions of a customer’s bill. The Commission therefore believes that, prior to making a decision on a revision to Rule R12-17(c), it would be useful to receive more empirical and statistical information regarding the partial payment issue, additional information regarding relevant experience in other states, and further comments on relevant policy issues.

Accordingly, the Commission wishes to receive further information from the NCTIA and AT&T as follows:

1. The members of the NCTIA are requested to provide the empirical, statistical, and other information set out below to the NCTIA. The NCTIA is requested to collate the information and submit it to the Commission by no later than October 8, 2007. The information should be set out on a month-to-month basis for the three-year period prior to September 1, 2007²:
 - a. The raw number and percentage of disconnects of local service by company due to the customer’s failure to make payments.
 - b. The raw number and percentage of customers by company making partial payments for each month.
 - c. The raw number and percentage of customers by company that make partial payments and who lose service other than local.
 - d. The raw number and percentage of customers by company that make partial payments and who lose local service.
 - e. What types of services are being lost?
 - f. Nature and amount of typical partial payments.

² AT&T is requested to provide the same information in the same time frame separately on October 8, 2007, with respect to requests 1(a) through 1(f). AT&T may provide information relevant to request 1(g) as it relates to the experience of other states with approaches similar to that of the current Rule R12-17(c) and to request 1(h) as it relates to this and other states with approaches similar to that of the current Rule R12-17(c).

- g. Statistical information regarding the above to the extent practicable from other states that have adopted an approach to partial payments like that proposed by the NCTIA.
 - h. Any other empirical evidence derived from customer preference surveys or studies relevant to the adoption of the NCTIA's partial payment approach. A description of the methodology of such studies or surveys should be included.
2. The Public Staff and the Attorney General are requested to respond to the NCTIA's and AT&T's filing by no later than November 8, 2007. The Public Staff and the Attorney General are encouraged to submit any relevant empirical or statistical evidence they may have at their disposal.

Second, the Commission concludes that certain other issues should be also subject to comment. The first issue relates to the use of the terms "regulated" and "non-regulated." These terms are used in Rule R12-17, but are not defined in the Rule. Is a "non-regulated service" one that has been totally deregulated (such as long distance service or broadband) or does the term encompass a detariffed service? Or does the proper standard as to whether a service is regulated or non-regulated hinge on whether it is a service giving rise to jurisdictional revenue upon which a public utility must pay a regulatory fee? Perhaps more importantly, what working definition of regulated versus non-regulated are the NCTIA members *in fact* using when they are complying or attempting to comply with Rule R12-17? Is the regulated/non-regulated distinction "of limited value in the industry and of no practical value to consumers" as the NCTIA maintained in its Petition? Why or why not? If the terms regulated and non-regulated are of no value, should those terms be removed from the rule and replaced with another reference? If so, what reference should be used?

The second issue has to do with the use of a non-uniform billing rule. In the first round of comments, AT&T opposed the NCTIA proposal, preferring to stay with the current Rule R12-17(c). This set of positions raises the issue of whether the Commission should continue to require a uniform treatment of partial payments among all telecommunications providers. In other words, the Commission seeks further comment with respect to whether it should retain the existing Rule R12-17(c) but approve the NCTIA proposal as an alternative and authorize companies to choose whether they wish to operate under the existing Rule R12-17(c) or the proposed rule.

The third issue has to do with the weight that should be assigned to customer preference versus the public policy favoring preservation of access to local service in the context of Rule R12-17(c). The NCTIA has argued that customers have indicated to their service providers through surveys and other methods that they would prefer the default payment priority arrangements that the NCTIA has proposed. As a result, the NCTIA is implicitly arguing that the Commission should give the greatest weight in its decisionmaking processes to customer preferences. The Public Staff and the Attorney General argue that, as a matter of public policy, the most important factor is to maintain a default rule that gives precedence to the maintenance of local service whenever

possible. The Commission would like to know the parties' views of the amount of weight that should be assigned to customer preference and the public policy of giving priority to local service with respect to the issues pending in this proceeding involving the NCTIA's proposed modifications to Rule R12-17(c).

The NCTIA should submit its comments addressing these questions on October 8, 2007. The Public Staff, the Attorney General, and AT&T should reply by no later than November 8, 2007.

Third, the Commission concludes that the balance of the amendments to Rule R12-17 proposed by the NCTIA should be approved with minor modification and as set forth in Appendix A. In contrast to the dispute over Rule R12-17(c), the parties displayed much more agreement on the subject of the other amendments proposed by the NCTIA to Rule R12-17. The only substantial area of disagreement was with respect to the proposed amendment to Rule R12-17(i)(1)(A)(iii). The Public Staff noted that the NCTIA's proposed language strikes the requirement that the disconnect notice provide the customer with the amount the customer is required to pay to maintain unbundled local service. The Public Staff argued that this was a critical component of a disconnect notice to customers with bundled service offerings and should not be eliminated. The Commission concurs with the Public Staff on this matter and amends Rule R12-17(i)(1)(A)(iii) in the manner suggested by the Public Staff. The language recommended by the Public Staff is also included in Appendix A.

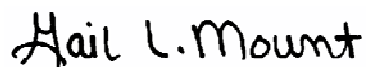
Fourth, the Commission concludes that it should make a technical and non-substantive change to Rule R12-17 on its own motion. The NCTIA proposed a change to Rule R12-17(i)(2)(E). The second sentence of Rule R12-17(i)(2)(E) reads: "However, prior to or after the adoption of the FCC regulations, *parties in this docket* are free to seek additional billing format changes in the public interest." (Emphasis added). It is improper to restrict those who can seek additional billing format changes to parties in this docket. As a result, the second sentence should be revised to read: "Interested parties are free to seek additional format changes in the public interest." This change is reflected in Appendix A, as are a number of other non-substantive wording changes.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of August, 2007.

NORTH CAROLINA UTILITIES COMMISSION



Gail L. Mount, Deputy Clerk

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

bp082407.01

Rule R12-17. Disconnection, Denial, and Billing of Telephone Service.

Rule R12-17(b)(3) is rewritten to read as follows:

(3) If a customer fails to pay the past due balance for bundled local service in full, a notice will be provided advising the customer of the total amount that needs to be paid to avoid disconnection. For telephone utilities who offer unbundled local service, the notice will provide instructions on how the customer may avoid discontinuation of basic local service if he is unable or unwilling to pay the full amount owed for the bundled local service; otherwise the customer's basic local service will be discontinued when the bundled local service is disconnected. When the account is paid in full, the customer may contact the telephone company and request reconnection of the bundle.

Rule R12-17(b)(4) is rewritten to read as follows:

(4) If the customer chooses to convert to unbundled local service, and if the regulated past due balance owed for local service or a surrogate amount has been paid in full or is sufficiently current, the telephone utility will continue to provide the customer with the customer's current local service. If toll service charges remain unpaid, global toll denial may be imposed, after appropriate notice under Commission rules. The notice of global toll denial will also advise the customer that the customer may subscribe to any local services, as defined in Rule R12-17(a)(1), offered by the utility.

Rule R12-17(i) is rewritten to read as follows:

(i) Disconnect notices, billing statements and bundled customer notification for telephone utilities.

Rule R12-17(i)(1)(A)(iii) is rewritten to read as follows:

(iii) For telephone utilities who offer unbundled local service, disconnect notices for residence customers will provide instructions on how the customer may avoid discontinuation of basic local service if he is unable or unwilling to pay the full amount owed for the bundled local service, and should specify the amount due to maintain local service; otherwise the customer's basic local service will be discontinued when the bundled local service is disconnected. For carriers that offer only bundled local service, disconnect notices shall clearly state the minimum amount that must be paid in order to maintain the bundled local service.

Rule R12-17(i)(2)(A) is rewritten to read as follows:

(A) Where the services of any provider other than the billing utility are stated, the name of the service provider offering the service and a toll-free contact number or numbers for the service provider shall be clearly and conspicuously identified. The toll-free contact number for the service provider may be a number of the company that handles the inquiry for the service provider.

Rule R12-17(i)(2)(B) is rewritten to read as follows:

(B) Language must appear on the bill clearly explaining the consequences of failing to pay particular charges shown on the bill. Such language must be prominently displayed either on the summary page of the bill or in close proximity to the specific charges to which it applies, or in a section dedicated to that purpose.

Rule R12-17(i)(2)(C) is rewritten to read as follows:

(C) Language, prominently displayed, must also appear on the bill clearly identifying either those charges for which nonpayment will not result in disconnection of local service or the amount that must be paid in order to prevent disconnection of local service.

Rule R12-17(i)(2)(D) is rewritten to read as follows:

(D) If a telephone utility bills for a bundle of services offered in part by a third-party provider, the name of the third-party provider, with the associated toll-free contact information, must be identified on the bill as a co-provider of the bundle. If the third-party provider is affiliated with the billing utility, and the billing utility is authorized and capable of responding to customer inquiries on behalf of the third-party provider, this requirement is not applicable.

Rule R12-17(i)(2)(E) is rewritten to read as follows:

(E) The billing format must be in accordance with the FCC's Truth in Billing regulations. Interested parties are free to seek additional billing format changes in the public interest.

Rule R12-17(i)(2)(F) is deleted.

Rule R12-17(i)(3) is rewritten to read as follows:

- (3) Bundled Customer Notification: Whenever a residence customer subscribes to bundled local service, concurrent with the customer's first billing statement, notification must be provided by a bill insert, bill message, or direct mail (including email when affirmatively selected by the customer) as set forth below, and a similar bill insert, bill message, or direct mail (including email when affirmatively selected by the customer) must be sent to the customer annually thereafter. The bill insert, bill message, or direct mail (including email when affirmatively selected by the customer) shall read as follows:

Rule R12-17(i)(3)(A) is rewritten to read as follows:

- (A) For local carriers who offer unbundled local service:

You are a subscriber to a bundled local telephone service. **Please note** that if you do not pay your **entire** bill for bundled local service, **all** components of the bundled local service are subject to disconnection. However, before your bundled local service is disconnected, you will have the option of maintaining local service by paying the regulated past due balance owed for unbundled local service.

Rule R12-17(i)(3)(C) is rewritten to read as follows:

- (C) Modification of bill insert, bill message, or direct mail (including email when affirmatively selected by the customer) requirements may be requested to address jurisdictional conflicts and other legitimate issues on an individual basis.