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§ 609.1 Purpose

This Part sets forth the commission's rules and regulations which apply to the provision of basic local exchange service by telephone corporations when service is provided to residential customers or applicants for residential service as defined in section 609.2 of this Part.

§ 609.2 Applicability of rules

Notwithstanding any other commission rule or order to the contrary, this Part governs the provision of residential service as defined herein and the rights, duties and obligations of every telephone corporation subject to the jurisdiction of the commission by virtue of Article 5 of the Public Service Law with respect to such service, their residential customers and applicants for residential service.

(a) Residential service is basic local exchange service furnished in private homes or apartments, including all parts of the subscriber's domestic establishment, for domestic use and not for substantial occupational use; in the study of a clergyman located in a church, in college fraternity or sorority houses, college dormitories, convents and monasteries for domestic rather than occupational use in residential quarters.

(b) The term existing residential customer, when used in this Part, shall include any person who is supplied directly by a telephone corporation with residential service at a dwelling for his or her residential use pursuant to an application for service made by such person or a third party on his or her behalf. The term includes a person requesting such service who was a customer of the same telephone corporation within 12 months of making the request, who was not terminated for nonpayment more than 10 days before making the request, and who may move to a different dwelling within the telephone corporation's service territory.

(c) The term applicant, when used in this Part, shall include any person who does not qualify as an existing residential customer and who requests basic local exchange service at a dwelling for his or her residential use or the residential use by another person.

(d) The term reportable charges shall mean any charges for local service which are unpaid 45 days from the date of the bill for the charges, provided that the bill was mailed within six business days of the date of the bill. Charges which are the subject of a deferred payment agreement under which the customer is making the agreed upon payments are not reportable charges; failure to make an agreed upon payment shall make the entire unpaid balance of the deferred payment agreement a reportable charge. Charges which are the subject of a pending billing dispute pursuant to section 609.16 of this Part are not reportable charges during the pendency of the dispute or for 15 days after its resolution.

(e) The term basic local exchange service shall include the following charges for residential service:

- (1) customer access line, including any usage bundled in this charge;
- (2) local measured service;
- (3) local measured units;
- (4) locality rates;
- (5) mileage;
- (6) late payment charges on local exchange service;
- (7) subscriber line charge;

- (8) taxes and surcharges prorated to reflect only the taxes and surcharges associated with local exchange service;
- (9) nonpublished service;
- (10) touchtone;
- (11) local exchange service restoral charge;
- (12) NSF check charge for local exchange service or any part of local exchange service;
- (13) service order charge for local exchange service;
- (14) construction charges for local exchange service; and
- (15) intra LATA toll service and interregional calls unless intraLATA prescription is offered and selective intra-LATA access is available.

(f) The term suspension shall mean the interruption of outgoing service only.

(g) The term termination shall mean the interruption of both incoming and outgoing service.

(h) The term seasonal customer shall mean a customer who applies for and receives service periodically each year, intermittently during the year, or at other irregular intervals.

(i) The term short-term customer shall mean a customer who requires service for a specified period of time that does not exceed one year.

(j) The terms deny or denied shall mean any determination, by a representative of a telephone corporation in response to an application for service, that service will not be initiated as requested.

(k) The term delinquent in payment shall mean a residential customer has not paid in full a duly rendered bill, or an agreed-upon partial payment, for basic local exchange service 25 days after the first day of the period for which the local service charge is being billed, or within a longer period agreed to by the utility. A residential customer who has not paid in full a bill, or an agreed-upon partial payment, for basic local exchange service in circumstances where disconnection for nonpayment is precluded under utility complaint procedures established under section 609.16 of this Part or commission complaint procedures under Part 11 of this Title, shall not be considered delinquent in payment. Nothing in this Part shall modify the commission's rules or orders applicable to the provision of telephone service to nonresidential customers.

§ 609.3 Applications for residential basic local exchange service

(a) Extension of service. (1) Consistent with the provisions of this section, every telephone corporation shall provide basic local exchange service to an applicant upon his or her oral or written request.

(2) A telephone corporation shall not be obligated to provide service to an applicant who owes the telephone corporation money for basic local exchange service provided to a prior account in his or her name unless:

(i) the applicant makes full payment for such service provided to any such prior account in his or her name;

(ii) the applicant agrees to make payments under a deferred payment plan, not to exceed three months, of any amount due for basic local exchange service to a prior account in his or her name if the applicant qualifies for such a plan by having been a customer for three months and service was not terminated for nonpayment during that period and if the amount due has not been the subject of a previous deferred payment plan under this subdivision;

(iii) the applicant has pending a billing dispute pursuant to section 609.16 of this Part with respect to any amounts due for service to a prior account in his or her name and has paid any amounts required to be paid pursuant to those provisions; or

(iv) the commission or its authorized designee directs the provision of service, who may require such extension of service to be made within 24 hours or less.

(3) A telephone corporation shall not be obligated to provide service to an applicant who has reportable charges, or has been terminated for nonpayment within the past 6 months, with any other telephone corporation unless the applicant agrees to:

(i) pay a deposit in accordance with the provisions of section 609.9 of this Part; or

(ii) make advance payment of an amount not to exceed two times the average monthly bill for basic local exchange service. Such payment shall be applied to charges for local service on the first and subsequent bills, until it has been liquidated. The telephone corporation may not condition service upon payment in advance for any person it knows to be a recipient of public assistance, supplemental security income, or additional State payments.

(4) The telephone corporation may request either a deposit or payment in advance, but not both, as a condition of service.

(5) A telephone corporation shall be obligated to provide service to any applicant who meets the requirements of this section within five business days of receipt of a completed oral or written application for service or such later time as may be specified by the applicant, except:

(i) where prevented by labor strikes or precluded by law;

(ii) where precluded by consideration of public safety;

(iii) where the applicant fails to pay, or agree in writing to pay, reasonable chargeable material and installation costs relating to temporary or permanent line extensions, or otherwise fails to comply with any applicable requirements of the commission's rules;

(iv) where precluded by physical impediments including:

(a) adverse weather conditions;

(b) inability to gain access to premises in the possession of the applicant or others when necessary;

(c) incomplete construction of necessary facilities by the applicant or inspection thereof by the appropriate authorities; or

(d) incomplete construction of necessary facilities by the telephone corporation. the telephone corporation shall make reasonable efforts to eliminate conditions preventing extension of service and shall pursue completion of any facilities it must construct with due diligence; or

(v) where directed by the commission or its authorized designee, who may require such extension of service to be made within 24 hours or less.

(6) An oral application for service shall be deemed completed when an applicant who meets the requirements of this section provides his or her name, address, and address of prior account, if any or prior telephone number, if any. A telephone corporation may establish nondiscriminatory procedures to require an applicant to provide reasonable proof of the applicant's identity.

(7) A telephone corporation may require an applicant to complete a written application if:

(i) there are reportable charges from a previous account with any telephone corporation at the premises to be served; or

(ii) the application is made by a third party on behalf of the person(s) who would receive service. A written application may require the submission of information required in an oral application, and reasonable proof of the applicant's responsibility for service at the premises to be supplied. A telephone corporation requiring a written application shall so notify an applicant as soon as practicable after the request for service is made, and in no event more than three business days after such request, and shall state the basis for requiring a written application. A written application containing the required information shall be deemed completed when received by the utility.

Comment: When a written application is permitted, a telephone corporation may require the applicant to provide a copy of a lease (if one exists), deed, bill of sale or other documentation to show the date the applicant became responsible for service. A telephone corporation may also require an applicant to validate the applicant's prior address.

(8) Subject to the requirements of paragraph (5) of this subdivision, whenever a residential customer moves to a different dwelling within the service territory of the same telephone corporation and requests residential service within 12 months, he or she shall be eligible to receive service at the different dwelling, and such service shall be considered a continuation of service in all respects, with any deferred payment agreement, and with all rights honored; provided, however, that such customer's prior service was not terminated for nonpayment more than 10 days before the request for service.

(9) A telephone corporation shall extend service to an applicant for residential basic local exchange service, whose application for service has previously been denied, within five business days unless a later time is requested by the applicant, after the following events:

(i) elimination of all the conditions specified in paragraphs (2)-(5) of this subdivision which resulted in the denial of service; or

(ii) by direction of the commission or its authorized designee, who may require such extension of service to be made within 24 hours or less.

(b) Denial of application for service--notice. (1) An application for service not denied within three business days shall be deemed approved.

(2) No telephone corporation shall deny an application for service or condition service upon an advance payment or deposit without advising the applicant within three business days of receipt of the application for service of:

(i) the reason or reasons for the denial, or the requirement for an advance payment or deposit;

(ii) precisely what the applicant must do to qualify for service or eliminate the requirement; and

(iii) his or her right to an investigation and review by the commission or its authorized designees of the denial or request for an advance payment or deposit. The telephone corporation shall advise the applicant of the appropriate methods available to challenge the action of the telephone corporation and the address and telephone number of the commission.

(3) When the notice required by paragraph (2) of this subdivision is made orally, the telephone corporation shall provide the applicant, upon request, the notice in writing at his or her current address unless a different address is specified. When oral notification cannot be accomplished within three business days due to the unavailability of the applicant, the telephone corporation shall provide immediate written notification.

§ 609.4 Suspension or termination of basic local exchange service

(a) Conditions for suspension or termination. A telephone corporation may suspend or terminate basic local exchange service as provided for in these rules if the customer:

(1) fails to pay the telephone corporation charges due at any time during the preceding six months; provided, however, that suspension or termination of service for bills due for service rendered during periods in excess of the six-month period is permitted in cases involving billing disputes during the six-month period or the culpable conduct of the customer; and provided further, that the telephone corporation shall commence any such billing not more than two months after the resolution of the billing dispute, the cessation of the event which caused the telephone corporation to delay or delays caused by the customer's culpable conduct;

(2) fails to pay amounts due under a deferred payment agreement;

(3) fails to pay or agree in writing to pay equipment and installation charges relating to the initiation of service; or

(4) fails to pay a lawfully required deposit.

(b) Notice of suspension or termination--contents. A notice of suspension or termination shall clearly state or include:

(1) the earliest date on which suspension or termination may occur;

(2) the reasons for suspension or termination and the manner in which suspension or termination may be avoided, including the total amount required to be paid to avoid suspension or termination;

(3) the address and telephone number of the office of the telephone corporation that the customer may contact in reference to his or her account;

(4) the availability of procedures for handling complaints;

(5) the availability and a general description of a deferred payment agreement, which shall be highlighted;

(6) a summary of the protections available under this Part, together with a notice that any customer eligible for such protections should contact the telephone corporation; and

(7) the notice may include any additional information not inconsistent with this Part. In addition, the notice shall have printed on its face, in a size type capable of attracting immediate attention, language conveying the following:

"THIS IS A FINAL DISCONNECTION NOTICE. PLEASE BRING THIS NOTICE TO THE ATTENTION OF THE TELEPHONE CORPORATION WHEN PAYING THIS BILL."

(c) Notice of suspension or termination--time. (1) No telephone corporation shall suspend service until at least eight days nor terminate service until at least 20 days after a notice:

(i) has been served upon the residential customer; or

(ii) has been mailed to the residential customer at the premises where service is rendered; provided, however, if a residential customer has specified to the telephone corporation in writing an alternative address for billing purposes, the notice under this paragraph shall be sent to such alternative address rather than to the premises where service is rendered.

(2) A telephone corporation may not issue or send a notice of suspension or termination unless at least 25 days have elapsed from the date of the bill, except when exceptional circumstances exist, a notice may be issued in less than 25 days, but only in accordance with procedures approved by the commission or its designee. A telephone corporation shall mail the bill within six business days of the date of the bill. A telephone corporation shall extend the 25-day period one day for each day beyond the sixth business day when bills are mailed late. Individual customers also shall be given the same extension when documentation, such as the postmarked date, exists.

(3) After issuing the notice, the telephone corporation shall attempt to notify the customer by telephone of the intended suspension or termination and how such suspension or termination may be avoided. The attempt to notify the customer by telephone shall include at least one telephone call during nonworking hours before the scheduled date for suspension or termination.

(d) Suspension or termination of service--time. A telephone corporation complying with the conditions set forth in this section may suspend or terminate service to a residential customer for nonpayment of bills only between the hours of 8 a.m. and 7:30 p.m., Monday through Thursday, and between 8:00 a.m. and 3:00 p.m. on Friday, provided such day or the following day is not:

(1) a public holiday, as defined in the General Construction Law;

(2) a day on which the main business office of the telephone corporation is closed for business; or

(3) during the periods of December 23rd through December 26th and December 30th through January 2nd.

(e) Suspension or termination for abandonment of facilities. (1) No telephone corporation shall suspend or terminate service on the grounds that a customer's facilities have been abandoned or are being used by unauthorized persons unless such corporation shall first determine, by such means as are reasonably calculated to determine occupancy, that such facilities have in fact been abandoned or are being used without the authority of the customer of record. The telephone corporation shall send a notice to the customer stating the reasons for the suspension or termination no later than five days prior to the date of any such suspension or termination, except that the five-day notification period shall be waived when mailings are returned by the post office or a new customer advises that he or she has moved into the location.

(f) No suspension or termination without verification of delinquent account. No telephone corporation shall suspend or terminate service for nonpayment of bills rendered unless:

(1) it shall have verified that payment has not been received at any office of the telephone corporation or at any office of an authorized collection agent through the end of the notice period required by this Part; and

(2) it shall have verified on the day suspension or termination occurs that payment has not been posted to the customer's account as of the opening of business on that day.

(g) Rapid posting of payments in response to notices of suspension or termination. Every telephone corporation shall ensure that any payments made in response to a notice, when the customer brings the fact that such a notice has been issued to the attention of the telephone corporation or its collection agents:

(1) are posted to the customer's account on the day payment is received; or

(2) are processed in some manner so that suspension or termination will not occur.

(h) Additional notice required when payment by check is subsequently dishonored. The telephone corporation shall be required to make at least two attempts, one outside of normal business hours, to contact a customer within 24 hours when the telephone corporation is in receipt of a subsequently dishonored negotiable instrument due to lack of funds, provided that the customer previously has not submitted a dishonored check within the past 12 months. Upon reaching the customer, the telephone corporation shall give him or her an additional 24 hours to pay the bill before suspension or termination of service.

§ 609.5 Suspension or termination of residential basic local exchange service--special procedures

This section provides special protections for residential customers regarding the suspension or termination and restoration of basic local exchange service in cases involving medical emergencies, the elderly, blind or disabled.

(a) Medical emergencies. (1) No telephone corporation shall suspend, terminate or refuse to restore basic local exchange service and any access determined by the customer's doctor to be necessary to reach the customer's doctor when a medical emergency exists, for which certification by a medical doctor or local board of health may be required, for nonpayment of monthly charges in an amount set by the commission; provided, however, that a demonstration of the customer's inability to pay charges for service may be required before a certificate of medical emergency can be renewed pursuant to paragraphs (3) and (4) of this subdivision, unless the commission or its designee directs otherwise.

(2) A medical emergency exists when a resident of a customer's residence suffers from a serious illness or medical condition which severely affects the resident's well-being and the absence of such telephone service would create a serious risk of inaccessibility of emergency medical assistance, assistance relating to medical care or professional advice. An inability to pay charges for service is demonstrated when a customer is unable to pay past due and current telephone bills because of insufficient liquid assets and current income, considering other necessary and reasonable expenses of the customer such as food, shelter and medical expenses, which may be documented by provisions of the information required in the form set in Appendix 17 of this Title or such other form approved by the commission.

(3) Certification. An initial certification of a medical emergency by a medical doctor or local board of health may be made by telephone and shall remain effective if written certification is provided thereafter to the telephone corporation within five business days. A telephone corporation may require that any certification of a medical emergency shall be submitted on stationery of the medical doctor or local board of health, shall be signed by the medical doctor or an official of the local board of health qualified to make a medical judgment and shall state the name and address of the certifying medical doctor or local board of health, the doctor's State registration number, the name and address of the seriously ill person, the nature of the serious illness or medical condition, any service beyond basic local exchange services which may be necessary to reach the customer's doctor because of the medical condition and an affirmation that the customer suffers from a serious illness or a medical condition that severely affects the resident's well-being and that the absence of such telephone service would create a serious risk of inaccessibility of emergency medical assistance, assistance relating to medical care or professional advice. The certificate shall be effective for 30 days from the time the telephone corporation receives an oral or written certification, whichever occurs earlier. In deciding whether the conditions for a medical emergency are met, the medical doctor or qualified official of the local board of health should use his or her best judgment. A telephone corporation receiving an initial certificate shall promptly so notify the customer in writing and shall provide information on renewal of certificates, including the form set forth in Appendix 17 of this Title, or such other form approved by the commission if the telephone corporation intends to make a determination concerning a customer's ability to pay charges for service. The telephone corporation also shall issue a reminder notice on renewal of certificates seven days prior to the expiration of the certificate.

(4) Certificate renewal. If the medical condition is likely to continue beyond the expiration of an initial certification, a certificate may be renewed, provided:

(i) a medical doctor or qualified official of the board of health states in writing to the telephone corporation the expected duration of the medical emergency, and explains either the nature of the medical emergency or the reason why the absence of such telephone service would create a serious risk of inaccessibility of emergency medical assistance or assistance relating to medical care or professional advice; and

(ii) the customer demonstrates an inability to pay charges for service. A customer may be required, before the expiration of the initial certification, to submit to the telephone corporation the information required in the form set forth in Appendix 17 of this Title, or such other form approved by the commission for the purpose of demonstrating an inability to pay charges for service. A telephone corporation shall, within five days of submission of such information, determine

whether the customer's liquid assets and current income are insufficient to pay such telephone bills, considering other necessary and reasonable expenses of the customer such as food, shelter, medical and other necessary expenses. Whenever a telephone corporation determines that a customer has not demonstrated a financial hardship, it shall provide the customer with written notice of determination and the customer's right to review of the determination by the commission or its authorized designee. A telephone corporation shall stay any suspension or termination activity pending its determination on the customer's ability to pay and any review of such determination by the commission or its authorized designee. A renewed certificate shall remain in effect for 30 days, provided that in cases certified as chronic by a medical doctor or qualified official of the local board of health, the renewed certificate shall remain in effect for 60 days or such longer period as may be approved by the commission or its designee. The telephone corporation may require that the statement of financial hardship shall be completed and submitted to the telephone corporation whenever a certificate is renewed.

(5) No telephone corporation shall suspend or terminate such service to a residential customer after the expiration of a certification of medical emergency or after the telephone corporation determines and the commission or its designee concurs that the customer has an ability to pay charges for service without first sending the customer a final notice of suspension or termination at least eight days prior to suspension of outgoing service and 20 days prior to the date of termination.

(6) While certification of medical emergencies remains in effect, customers shall remain liable for payment of telephone service and shall make reasonable efforts to pay charges for such service. The authorized designees of the commission shall be available to offer assistance to customers for working out equitable payment arrangements in order to avoid substantial arrearages at the end of a medical emergency.

(b) Customers who are elderly, blind or disabled. (1) No telephone corporation shall suspend or terminate or refuse to restore service where a residential customer is known to or identified to the telephone corporation to be blind, disabled, or 62 years of age or older, and all the remaining residents of the household are 62 years of age or older, 18 years of age or under, blind or disabled, without complying with the procedures specified in this subdivision. A person shall be considered "disabled" if the person has a disability as that term is defined in the Human Rights Law (*Executive Law, section 292(21)*). A person shall be considered blind if the person has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

(2) In such cases, a telephone corporation shall not suspend or terminate service for an additional 20 days after the date of suspension or termination as stated on the notice and shall make a diligent effort to contact by telephone or in person if telephone contact is unsuccessful, an adult resident at the customer's premises at least eight days prior to the date on which suspension or termination of service may occur for the purpose of devising a payment plan.

(3) In cases where service has been suspended or terminated and the telephone corporation subsequently learns that the customer is entitled to the protections established under this subdivision, the telephone corporation shall, within 24 hours of such notification, restore service for an additional 20 days and make a diligent effort to contact in person an adult resident at the customer's premises for the purpose of devising a payment plan. A telephone corporation unable to contact such person within 24 hours shall make reasonable efforts to achieve contact as soon as practicable.

§ 609.6 Voluntary third-party notice prior to termination of service

Every telephone corporation shall permit a residential customer to designate a third party to receive all notifications relating to suspension and/or termination of service or other credit notices sent to such residential customer, provided that the designated third party agrees in writing to receive such notices. The telephone corporation shall inform the third party that the authorization to receive such notices does not constitute acceptance of any liability on the third party for service provided to the customer. The telephone corporation shall promptly notify the residential customer of the refusal or cancellation of such authorization by the third party.

§ 609.7 Reconnection of service

(a) A telephone corporation shall reconnect suspended or terminated basic local exchange service within 24 hours, unless prevented by circumstances beyond the telephone corporation's control or unless a customer requests otherwise, in the following situations:

(1) receipt by the telephone corporation of the full amount of arrears for which service was suspended or terminated or upon the elimination of conditions that warranted suspension or termination of service;

(2) agreement by the telephone corporation and the customer on a deferred payment plan and the payment of a down payment, if required, under the plan;

(3) where a telephone corporation has notice that a serious impairment to health or safety exists and telephone service is necessary to insure accessibility of emergency medical assistance, assistance relating to medical care or professional advice. Doubts as to whether reconnection of service is required for health or safety reasons shall be resolved in favor of reconnection; or

(4) upon the direction of the commission or its designee.

Comment: A telephone corporation may not insist upon payment of lawful charges that did not provide the basis for suspension or termination before restoring service under this subdivision. In these circumstances, payment of other lawful charges that did not form the basis for the suspension or termination should be part of the deferred payment plan in accordance with section 609.8 of this Part, unless the customer elects to pay such charge immediately.

(b) Whenever circumstances beyond the telephone corporation's control prevent reconnection of service within 24 hours of any of the events specified in subdivision (a) of this section, service shall be reconnected within 12 hours after those circumstances cease to exist.

§ 609.8 Deferred payment agreements

(a) No telephone corporation shall suspend, terminate or refuse to restore or provide basic local exchange service to a residential customer, who has been an existing residential customer for three months and for whom basic local exchange service has not been terminated for nonpayment during that period because of arrears owed on such person's account, unless it offers the customer a deferred payment agreement pursuant to this section. Customers with medical emergencies and customers who are elderly, blind or disabled shall be exempt from such eligibility criteria. However, any such agreement shall not be available to any customer who the commission or its designee determines has the resources available to pay his or her bill. The offer of a deferred payment agreement shall specify the total amount of arrears, the down payment, the installment payments and the time for making such payments. The telephone corporation shall mail to the customer not less than six days prior to termination of service, a notice describing to the customer a deferred payment plan which shall contain a conspicuous, bold-type notice that the customer may obtain the assistance of the commission in reaching an agreement. Where service is already terminated pursuant to section 609.4 of this Part, such notice shall be given at the time the customer requests reconnection. A new deferred payment agreement need not be offered to a customer who is in default on an existing deferred payment agreement; provided, however, that such a customer may have his or her existing payment agreement renegotiated once within a 24-month period if he or she demonstrates that his or her financial circumstances have changed significantly because of conditions beyond his or her control.

(b) A deferred payment agreement:

(1) shall obligate the customer to make timely payments of current charges for basic local exchange service together with payment of the amount deferred during the pendency of the agreement;

(2) shall be for total amounts up to \$ 150 but may be greater amounts if agreed to by the telephone corporation or directed by the commission or its authorized designee;

(3) shall be for a time period of no less than 5 months unless otherwise agreed to by the customer; and

(4) may require the customer to make a down payment which shall not exceed the lesser of one fifth of the amount deferred or three months of the customer's average billing for basic local exchange service plus the difference, if any, between the total amount of arrears and the amount being deferred.

(c) Telephone corporations and customers should observe the following practices in developing the terms of deferred payment agreements: payment of amounts deferred may be made on a weekly, monthly or longer basis, at the convenience of the parties to the agreement. Telephone corporations must voluntarily offer plans with down payments of lesser amounts than allowed by subdivision (b) of this section when a customer cannot reasonably make a down payment equal to the amount allowed by subdivision (b). Eligible customers may voluntarily waive their right to make a down payment of not more than the amount allowed by subdivision (b) of this section, but telephone corporations cannot require or

otherwise solicit customers to make such waiver. Amendments of payment agreements should, to the extent reasonable and practical, reflect the changed circumstances of the customer.

(d) If the telephone corporation believes that a deferred payment agreement should not be offered because a customer has the resources to pay his or her bill, it shall notify the customer and the commission or its designee in writing of the reasons for its belief. The commission or its designee shall, in accordance with the complaint procedures set forth in section 609.16 of this Part, forthwith make a determination whether the customer has the resources to pay his or her bill. A telephone corporation shall stay any suspension or termination activity, and restore or provide service pending the decision on the telephone corporation's complaint by the commission or its authorized designee.

§ 609.9 Residential basic local exchange service deposits

(a) No telephone corporation shall require any applicant or existing residential customer to post a security deposit as a condition of receiving basic local exchange service unless the existing residential customer or applicant:

(1) is a seasonal customer or short-term customer;

(2) is an existing residential customer who has accumulated two consecutive months of arrears without making reasonable payment of such charges, defined as one-half of the total arrears, prior to the due date of the second bill, provided that the telephone corporation requests such deposit within two months of such failure to pay. A local exchange carrier intending to require a deposit of an existing residential customer shall provide a customer written notice, including the amount of the deposit, at least 10 days before it may assess a deposit, and state that the failure to make timely payment of the arrears will permit the utility to require a deposit from such customer;

(3) has had basic local exchange service terminated for nonpayment during the preceding six months;

(4) has reportable charges with any other telephone corporation;

(5) does not give a telephone corporation with which he or she is applying for service permission to determine the existence of reportable charges or if the customer has been terminated for nonpayment during the preceding six months on a previous or current account with other local telephone corporations subject to these regulations; or

(6) fails to provide reasonable proof of identity pursuant to section 609.3(a) (6) of this Part.

(b) Payment of deposit. If a telephone corporation requires a deposit from an existing residential customer or an applicant for telephone service, it shall permit such customer to pay the deposit in installments over a period not to exceed six months.

(c) Exceptions to deposit authorization. (1) No telephone corporation shall require any person it knows to be a recipient of public assistance, supplemental security income, or additional state payments to post a security deposit.

(2) No telephone corporation shall demand or hold a deposit from any applicant or existing residential customer it knows is 62 years of age or older unless such customer has had service terminated for nonpayment of bills within the preceding six months. Telephone corporations shall permit an applicant or existing residential customer 62 years of age or older to pay the deposit in installments over a period not to exceed 12 months.

(d) Deposit amounts. In any case where customer deposits are authorized by this section, the deposit amount shall not exceed two times the average monthly bill for basic local exchange service for a calendar year in order to secure payment for basic local exchange services actually rendered or for the rental of fixtures, instruments and facilities actually supplied.

(e) Interest on deposits. Every telephone corporation shall allow every customer from whom a deposit is required interest on the amount deposited at a rate prescribed annually by the commission.

(f) Application of deposit to unpaid bill. Each telephone corporation holding customer deposits shall render to each depositor, when and as his or her deposit is applied to an unpaid bill or bills, a statement showing:

(1) the amount of the deposit, together with the interest accrued thereon and the period covered thereby; and

(2) the balance of the bill or bills remaining unpaid or the balance of the deposit and interest thereon remaining to the credit of the depositor.

(g) Refunds. (1) Each telephone corporation shall review the accounts of all existing residential customers who have made deposits at least annually. Each depositor, upon becoming entitled to a refund by reason of nondelinquency for one

year or upon ceasing to be a customer, shall receive his or her deposit and all interest thereon which has not been refunded or credited against bills for service.

(2) The telephone corporation shall initiate such refund action and may request the payment of all bills for which such deposit is security.

(3) Any refund may be credited to the customer's account or, at the election of the depositor, the full refund shall be made to the depositor.

(4) For purposes of establishing a refund date when deposits are paid on an installment plan, the date will be the day of receipt of the first installment.

(h) Circular containing terms of deposit. Each and every telephone corporation holding customer deposits shall keep on hand for distribution to its customers a summary of the pertinent features of these requirements and shall inform customers from whom deposits are requested of its availability.

(i) Records. Each telephone corporation holding customer deposits shall keep adequate records with respect to each deposit.

§ 609.10 Backbilling on residential accounts

No telephone corporation shall charge a residential customer for previously unbilled service or adjust upward a bill previously rendered when the period for the unbilled service or billing adjustment is more than 24 months prior to the mailing of the bill or the upward billing adjustment for service to the residential customer unless the culpable conduct of the customer caused or contributed to the failure of the corporation to render timely or accurate billing. If the customer is liable for any service and the delay in billing was not due to the culpable conduct of the customer, the telephone corporation shall explain the reason for the late billing and shall advise the customer that suspension/termination of service is not permitted for nonpayment of charges billed in excess of six months after the service was provided and that payments may be made under an installment payment plan. Any such installment plan must be consistent with a customer's ability to pay and for a reasonable period of time that shall not be less than one month for each month represented by the late-billed charges, unless otherwise agreed to by the customer. If requested by the customer, the explanation for the late billing and the installment payment plan will be provided in writing. An adjustment to increase previously rendered bills more than six months after the time service was provided shall be made within four months of the final resolution of the billing dispute.

§ 609.11 Adjusted payments and other charges

(a) Adjusted payment schedule. Every telephone corporation shall offer residential customers on fixed incomes the opportunity to pay their bills on a reasonable schedule that is adjusted for such customer's periodic receipt of income.

(b) Other charges. No telephone corporation may charge any residential customer a late-payment charge, penalty, fee, interest or other charge of any kind without the approval of the commission for any late payment, collection effort, service termination or deferred payment agreement occasioned by the customer's failure to make timely payment for services. Nothing in this section shall prohibit a telephone corporation, with the approval of the commission, from imposing a reasonable charge, not in excess of its costs, pursuant to its tariff for restoral of service, dishonored checks and other lawful purposes.

§ 609.12 Contents of bills

Each telephone corporation's bill to a residential customer shall provide, in clear and understandable form and language:

(a) the name, address and account number of the customer, the name of the telephone corporation, the telephone number of the telephone corporation's business office which may be contacted to discuss the bill, amount owed for the latest period, the date by which payments for the latest period may be paid without a late-payment charge, the late-payment charge for late-paid bills, if any, credits from past bills, any amounts owed and unpaid from previous bills, and credits and charges which are adjustments to past bills due to service and/or rate increases; and

(b) a statement of how the bill may be paid; and

(c) an itemized listing of the services being subscribed to, and their monthly rates. An identification of those services which are not necessary for basic service shall be included with each new customer's first bill, each existing residential customer's first bill after a change in service and semiannually for all customers. New customers will be allowed 60 days to change their type or grade of service, or both, and to cancel any optional nonbasic services without incurring any cancellation or nonrecurring charges other than the original service connection and monthly charges for the period service was used. Nothing in this section shall preclude a telephone corporation from providing pertinent messages and information on the bill, provided such information does not interfere with the presentation of the information required by this section.

§ 609.13 Notification requirements

(a) Annual notification of rights. Every telephone corporation shall, at the time service is initiated to a residential customer and at least annually thereafter, provide residential customers with a plain language summary of their rights and obligations under this Part, or inform customers that such a summary is available and how it can be obtained from the company. At a minimum, the summary shall include the following:

(1) a description of the complaint-handling procedures available at the telephone corporation and the commission:

Comment: Such notice shall clearly state the means by which a complaint can be made to the company and shall also advise the customer that, if after contacting the telephone corporation, the customer remains dissatisfied, he or she may contact the New York State Public Service Commission. Such notice shall further state that the Public Service Commission has a staff available to give assistance in such matters, and shall also specify an appropriate address of the Public Service Commission.

(2) the rights and obligations of residential customers relating to payment of bills, termination of service and reconnection of service;

(3) a description of special protections afforded the elderly, blind, and disabled, and persons with medical emergencies;

(4) a request that residential customers who qualify for the protections referred to in Section 609.5(b) voluntarily so inform the utility;

(5) the right of a customer to designate a third party to receive copies of all notices relating to suspension and/or termination of service or other credit notices;

(6) appropriate forms that customers claiming the protections of section 609.5 of this Part may fill out and return; and

(7) a description of the customers' rights in regard to deferred payment plans and the holding and demanding of security deposits by the telephone corporation.

(b) Notices in telephone directories. The opening pages of each directory published by the telephone corporations shall contain a conspicuous notice advising customers that, should any utility fail to resolve their complaints regarding service or billing disputes to their satisfaction, they may refer their problems to the Consumer Services Division of the New York State Public Service Commission and the appropriate address and telephone number for the Public Service Commission's Consumer Services Division.

(c) Billing information in non-English language. Every telephone corporation providing service to a county where, according to the most recent Federal census, at least 20 percent of the population regularly speaks a language other than English, shall include in its telephone directories in such county a notice in both English and such other language which describes the contents of the telephone corporation's bill. At least once a year, every telephone corporation shall mail to all residential customers in such county a notice in both English and such other language spoken regularly by at least 20 percent of the population in such county, which describes the contents of the telephone corporation's bill.

§ 609.14 Emergency disconnections of residences

A telephone corporation may disconnect service to a residence when an emergency may threaten the health or safety of a person, a surrounding area or the telephone corporation's distribution system. The telephone corporation shall act promptly to assure restoration of service as soon as feasible. Service shall be restored to any residence before it may be terminated for any other reason.

§ 609.15 Inspection and examination of telephone corporation apparatus

(a) A duly authorized agent of the telephone corporation may enter any dwelling, building or other location supplied with service by the telephone corporation for the purposes of inspecting and examining the wires and other apparatus furnished by the telephone corporation and leased by customers for ascertaining any service-affecting problems on a nonholiday workday between 8 a.m. and 6 p.m., or at such other reasonable times as requested by a customer. At such time, the agent shall exhibit a photo-identification badge signed by the president or vice-president of the telephone corporation.

(b) The provisions of subdivision (a) of this section shall not apply to the inspection and examination of any such equipment where an emergency may threaten the health and safety of a person, the surrounding area, or the telephone corporation's distribution system.

(c) An agent of the telephone corporation otherwise duly authorized to inspect and examine apparatus, may not enter locked premises without the permission of the person lawfully in control on the premises, nor use any manner of force to carry out inspection and examination, except when an emergency may threaten the health or safety of a person, the surrounding area, or the telephone corporation's distribution system, or where authorized by a court order.

§ 609.16 Telephone corporation complaint-handling procedures

Customer complaints about bills for telephone service deposit requests or other service problems shall first be made to the telephone corporation. The telephone corporation shall allow complaints to be accepted and processed in a simple manner and form. Every telephone corporation shall promptly investigate any complaint in a fair manner and report the results to the complainant. If the report of the investigation is made orally, the telephone corporation shall provide the complainant, upon request, the report in writing. If the complainant requests the report in writing, the telephone corporation shall send such report in writing within five business days after the request by the complainant. In the event the corporation is unable to give an oral report due to the unavailability of the complainant, either a letter requesting the customer to call the telephone corporation or a written copy of the report shall be sent to the complainant no later than two business days after the results of the investigation are determined. If a letter requesting the customer to call is not responded to by the customer in five business days, a written copy of the report shall be sent to the complainant no later than the seventh business day after such letter was sent to the customer. A telephone corporation resolving a complaint in whole or in part in its favor shall inform the complainant of the availability of the commission's complaint-handling procedures, including the commission's address and telephone number. A telephone corporation shall refrain from suspending or terminating service for nonpayment during the pendency of a complaint before the telephone corporation or the commission and for 15 days after resolution by the telephone corporation, or by the commission or its authorized designee, unless otherwise provided by the commission or its authorized designee; provided, however, that as a condition of continued service during the pendency of such dispute, a customer shall pay the undisputed portions of any bill for service.

§ 609.17 Waiver

Unless otherwise precluded by the Public Service Law or other applicable law, the commission may, for good cause shown or upon its own motion, waive any requirement of this Part.