



ADMINISTRATIVE RULES OF MONTANA



38.5.3339 TERMINATION OF SERVICE

- (1) A carrier may interrupt service without notice only in emergency situations, if the service has been abandoned by the customer, or if the service was obtained without the carrier's authorization.
- (2) Subject to the requirements of these rules, telecommunications services may be discontinued, after notice, as provided in (5) , for the following reasons:
 - (a) Failure to make a security deposit or guarantee.
 - (b) Nonpayment of undisputed past due bills for regulated services.
 - (c) Unauthorized interference, diversion or use of telephone service.
 - (d) Violation of relevant laws, ordinances, commission rules or carrier tariffs, or
 - (e) Refusal to allow reasonable access to facilities or equipment.
- (3) A carrier may neither terminate nor refuse to provide regulated local exchange service based on the following:
 - (a) The failure of any person, other than the customer against whom termination is sought, to pay any charges due to the carrier.
 - (i) Failure to pay for business service at a different location and with a different telephone number is not grounds for disconnecting residential service and vice versa.
 - (b) Failure to pay an amount in dispute pending before the commission.
 - (c) Failure to pay for unregulated service or service provided by other carriers, except when the unregulated service was part of a local exchange carrier's service package that combined its local, toll, or unregulated services at a single rate.
- (4) All exchange carriers must establish a system of third party notification. That is, if a customer requests that a third party such as a social service, minister, responsible adult, etc., be notified of nonpayment, the exchange carrier must provide such a service, free of charge.
- (5) Notice of termination of service must comply with the following:
 - (a) Written notice of termination must be sent at least seven days prior to service disconnection and must contain the following:
 - (i) The reason for disconnection.
 - (ii) Corrective actions the customer may take.
 - (iii) Appeal actions the customer may take.

- (iv) Cost of reconnection, deposit requirements and any other costs associated with reconnecting the service.
 - (b) On the business day prior to disconnection a carrier representative must make a reasonable effort to contact and notify the customer of the information in the written notice. The carrier must keep a record showing the name of employee, date and hour of attempted contact and whether the customer was orally notified of disconnection.
 - (c) If a customer, to avoid disconnection, enters into a deferred payment agreement with a carrier, then fails to comply with the terms of the agreement, the carrier may terminate service to the customer without further notice.
- (6) Excessive toll usage accompanied by a risk of nonpayment justifies an exception to the seven-day notice requirement. The seven-day notice requirement shall be excused when service is to be terminated for excessive toll usage and an identifiable risk of nonpayment exists, as defined herein.
- (a) For purposes of this rule, "toll usage" includes regulated toll charges whether already billed or as yet unbilled, but excludes all amounts owed or owing for unregulated services or services provided by other carriers, except for other carriers' regulated services that cannot be disconnected or discontinued separate from local service.
 - (b) For purposes of this rule, "excessive toll usage" is toll usage for an estimated one month billing period that:
 - (i) exceeds 200 percent of the monthly average of the customer's toll charges, if any, from the preceding six months; and
 - (ii) is greater than \$100.
 - (c) For purposes of this rule, "risk of nonpayment" is established by the presence of any one of the following:
 - (i) there is no customer deposit and ARM 38.5.1103 permits the requirement of such a deposit; or
 - (ii) during the preceding 12 months, any of the following conditions existed:
 - (A) the customer's telephone service was disconnected for failure to timely pay amounts owing;
 - (B) two or more delinquency notices were served on the customer; or
 - (C) payment was made with two or more dishonored checks.
 - (d) The carrier shall not terminate service under the provisions of this rule without first contacting or making a diligent effort to contact the customer. Such contact will be for the purposes of:
 - (i) notifying the customer of the excessive toll usage;
 - (ii) notifying the customer of the possibility that service can be terminated on an expedited basis; and
 - (iii) providing the customer with the opportunity to supply adequate assurance of payment. In no event shall a diligent effort consist of less than three distinct attempts

to contact the customer, either in person or by telephone. The carrier must keep a record showing the name of the employee, date, hour and type of each attempted contact.

- (e) For purposes of this rule, "adequate assurance of payment" includes:
 - (i) the establishment of satisfactory credit as defined by ARM 38.5.1101;
 - (ii) the existence of a deposit, such deposit being consistent in amount with ARM 38.5.1105; or
 - (iii) any other form of assurance mutually agreed upon by the customer and the carrier, including an oral or written promise to pay. If the customer supplies adequate assurance as defined herein, no further action may be taken to terminate service.
- (f) If the carrier is unable to contact the customer, the carrier may terminate service three days (not including those days when there is no mail delivery) after the mailing of a notice consistent in form with the requirements of (5) . If the carrier is able to contact the customer and no adequate assurance is supplied, the carrier may terminate service not less than 24 hours after such contact.

Authorizing statute(s): 69-3-103, MCA

Implementing statute(s): 69-3-102, 69-3-201, MCA

History: NEW, 1989 MAR p. 1515, Eff. 9/29/89; AMD, 1991 MAR p. 2631, Eff. 12/27/91; AMD, 2006 MAR p. 2967, Eff. 12/8/06.