

ALABAMA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE CODE

CHAPTER 770-X-5
TELEPHONE RULES

770-X-5-.11 Privacy Of Telephone Communications.

(1) Each telephone utility subject to the jurisdiction of the Commission shall maintain a central file available for Commission inspection of all instructions to employees, regulations, rules and forms designed to insure the privacy (and/or maintain the secrecy) of communications over the lines of such utility together with a record of the steps taken to ensure the privacy and/or secrecy of communications.

(2) Each telephone utility shall file with the Commission, at the time of their Form M, or other annual report filing each year, one copy of a statement showing any changes in the steps being taken to insure privacy (and/or secrecy) of communications together with one copy of any new or revised instructions, regulations, rules and/or forms being used.

(3) Each telephone utility which does not have instances during the year of changes shall file with the Commission at the time of their Form M, or other annual report filing each year, one copy of a statement indicating it has no changes during the year.

(4) Monitoring or recording of telephone conversations shall not be conducted except pursuant to this rule.

(a) Monitoring means the use of monitoring equipment to allow a third person to overhear the telephone conversation of two or more persons. Monitoring does not include:

1. Unlawful wiretapping or eavesdropping;
2. Monitoring by law enforcement or national defense agencies, or by telephone utilities to prevent fraud or loss of revenues, when these activities are permitted under enabling laws and legal safeguards;
3. Accidental or unintentional interception of telephone conversations by telephone utility personnel engaged in normal operation, maintenance, or construction;
4. Administrative service observing performed by telephone utilities for the purpose of training and quality control when performed in accordance with existing federal, state or local laws.

(b) Recording means the recording of any telephone conversation by any means.

(c) Monitoring equipment means any method or apparatus by which a telephone company, or any of their officers, employees or agents, or a telephone subscriber, may listen to or record telephone conversations on premises owned or controlled by the utility or by the subscriber:

1. Without any audible indication to the parties conversing that their conversation is being overheard, or
2. Without connection of a device to provide two-way conversation between the listener and the parties conversing so that the listener's voice may be heard throughout any period of monitoring, or
- (3. Without any indication to the parties conversing that their conversation is being recorded.

(d) No portion of the public utility telephone network in Alabama to which the public, or any portion of the public, has access shall be used for monitoring or recording of telephone conversation except when:

1. All the parties to the conversation give their express prior consent to the monitoring or recording, or
2. When notice that such monitoring or recording is taking place is given to the parties to the conversation by one of the methods required in this Rule.

(e) Notice of monitoring or recording shall be given either:

1. By a tone warning device which automatically produces a distinct signal audible to all parties to a telephone conversation. The signal shall have those characteristics specified by the Federal Communications Commission, or by this Rule.
2. By verbal announcement by the operator of monitoring equipment to the parties to a communication that their communication is being monitored; or
3. By clearly marking each instrument from which communications may be recorded without notice.

Author: Alabama Public Service Commission

Statutory Authority: Code of Ala. 1975, §§37-1-57, 37-1-82, 37-2-3.

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§41-22-7.