

Tohono O’odham Utility Authority

Schedule of Rules and Regulations

Section I

General Service Rules

for

Electric, Water, Sewer, Telephone, Internet, Cellular and Propane

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I. Definitions

Applicant means any person, firm, tribal entity or corporation that filled out the application for service that is requesting service and will be responsible for payment of the service.

Billing Date means the date on which bills were rendered.

Customer” means any person, firm, tribal entity or corporation who receives electric, water, wastewater (sewer), propane, Internet, cellular and/or telephone service from TOUA under either an express or implied contract.

Customer of Record means the person, firm, TOUA, tribal entity or corporation that TOUA’s records show that is responsible for payment of the bill(s) for service.

Delinquent Bill means any bill that payment has not been received by the Due Date.

Due Date” means the date printed on the bill for when payment is due.

Due Date means the date printed on bills for service which is the last day the bill can be paid before a late payment penalty will be assessed.

Dwelling means any single residential unit or house occupied for residential purposes. Each separate metered apartment unit, duplex unit or other multiple dwelling units shall be considered a separate dwelling.

Lateral means the sewer pipe that connects the Customer’s Dwelling or Premise to TOUA’s sewer collection systems main line.

Late Payment Notice means a notice mailed to customers that have a Delinquent Bill advising the Customer of the date that service will be disconnected for non-payment.

Management Board means the group of persons appointed by the Nation, in accordance with the TOUA’s Second Restated Plan of Operation, delegated with the authority and responsibility for the management of TOUA.

Service Line means the following:

- A. For Electric, the power line that extends to private property, to the point of connection, where a meter and meter box are located on a Customer’s property, the service line shall be construed to include the line extending from TOUA’s main

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electric distribution line to the weather head, for overhead service and to the meter box for underground service.

- B. For Water, the pipeline extending from distribution water main, to the point of connection on private property. Where a meter and meter box are located on Customer's property, the service line shall be described as the pipeline extending from TOUA's water main to the meter and meter box.
- C. For Telephone and Internet, the service line extends from TOUA's main fiber/copper line onto the Customer's property to the Customer's protector/Optical Network Terminal (ONT), located on the Customer's dwelling or inside the Customer's Premise.

Premise means the tract of land, including all structures serving as Dwelling or operated as a single business or enterprise, provided, however, the term premise shall not include more than one (1) dwelling.

II. Applicability of Rules and Regulations

These Rules and Regulations shall apply to all Customers receiving electric, water, wastewater (sewer), propane, internet, cellular and/or telephone services from Tohono O'odham Utility Authority (TOUA) based upon contract, agreement, signed application or otherwise. These Rules and Regulations shall be and are part of each and every agreement, contract or arrangement whereby electric, water, wastewater (sewer), propane, Internet, cellular and telephone service is furnished by TOUA and all Customers are required to be governed by the Rules and Regulations as herein set forth.

These Rules and Regulations are in addition to the Rules and Regulations contained in other sections addressing the Rules and Regulations for individual types of service offered by TOUA

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The Rules and Regulations for service and rate schedules will be kept at all times in TOUA’s business office, where they will be available for public inspection during regular business hours. Copies may be obtained at reproduction cost.

Failure on the part of any Customer to observe these Rules and Regulations for service gives the TOUA the right to cancel all contracts and agreements and discontinue the furnishing of service(s).

Upon approval by the Management Board, these Rules and Regulations for service cancels and supersedes all previous Rules and Regulations for service issued prior to the effective date shown on the individual sheets of these Rules and Regulations for service.

TOUA is not subject to the jurisdiction of any state regulatory commission.

III. Service Deposit

A service deposit or suitable guarantee will be required for each service type before service is activated.

Deposits may be in the form of cash, letter of credit or any other form of security approved by TOUA’s Management Board. The Management Board will periodically review deposit amounts by class of service and service type and may revise, amend, supplement or otherwise change the minimum service deposit requirements from time to time without notice. Management Board approved minimum service deposit amounts are listed in the Schedule of Rates and Fees.

Customers participating in any service prepayment programs, offered by TOUA, will not be required to pay a service deposit, for the individual service prepayment program they are enrolled in, as long as he/she continues to participate in the service prepayment program.

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With the exception of Cellular service deposits, Customers that own their home will be refunded their service deposit, as a credit applied to the Customer’s bill, after twenty-four (24) consecutive months of good payment history from the date the deposit was received. A good payment history is defined as no disconnects for delinquent and unpaid bills. Service deposits for Cellular service will be retained and not refunded as long as the Customer maintains an active cellular service.

Service deposits for Customers living in rental property will be retained and not refunded as long as the Customer maintains an active service with TOUA and continues to live in rental property.

Customer’s service deposits may be transferred from one location to another if the Customer is relocating to another premise served by TOUA.

Upon termination of service(s), service deposits not previously refunded will be applied against any unpaid bills owed to TOUA. If any balance remains after such application is made, said balance shall be refunded to Customer of Record.

IV. Service Fees and Charges

The TOUA Management Board may establish fees (see Schedule of Rates and Fees) to cover the reasonable average cost, including administration expense, necessary to provide service to Customers and Applicants for service. Such fees may include but are not limited to Connection Fee, Reconnection Fee, Disconnection Fee, Application Fee, Return Check Charges, Meter Testing Charge, Tap Fees, etc. Higher fees may be established and collected when services are performed after normal business hours or when special circumstances warrant. The Management Board may revise, amend, supplement or otherwise change the fees and/or charges as necessary to maintain fees, and charges that cover the reasonable

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average cost, including administration, necessary to provide service to Customers and Applicants for service.

V. Billing

Customers will be billed for each service monthly, according to the applicable rate schedule including loan agreements received from TOUA. All bills are due on or before the due date. Failure to receive a bill will in no way releases the Customer from payment obligation. Questions regarding bills and/or charges should be directed to TOUA billing staff by calling TOUA's business office.

The Due Date will be ten (10) days from the Billing Date. Bills not paid within twenty (20) days of the Billing Date will be considered delinquent. Customers that have a delinquent bill will be mailed a Late Payment Notice and assessed a three (3) percent penalty on the amount of the delinquent bill. Delinquent Bills are subject to disconnect for non-payment twenty-five (25) days after the Billing Date. If the Due Date falls on Saturday, Sunday or any holiday that TOUA's office is closed, the next business day will become the due date. If remittance is made by mail, the postmark date will become the date of payment.

Special charges, fees, and taxes - There shall be added to the Customer's bill for service, an additional charge equal to the prorated share of any occupation, franchise, business, license, excise, privilege, or other similar charge or tax, now, or hereafter imposed by any taxing body or authority, whether by statute, ordinance, law, or otherwise, and whether presently due, or to hereafter become due.

Charges for service normally furnished on a monthly basis (except those involving a minimum billing period) billed for periods in excess of, or less than, a billing month, will be prorated based on the actual number of days for the period in question.

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If the Customer violates any of these Rules and Regulations and/or becomes delinquent in payment of the Customer’s bill, TOUA may employ an attorney or attorneys to protect its rights there under; and in the event of such employment following any violation by the Customer and to the extent allowed by law, the Customer shall pay reasonable attorney's’ fees and expenses incurred by TOUA, whether or not an action is actually commenced by law against the Customer by reason of the violation. The Customer agrees to indemnify TOUA from loss, damages and expenses, including attorneys’ fees incurred in conjunction with any suit or proceeding in or to which TOUA may become a party for the purpose of protecting or asserting any lien that it may have for the collection of any account owed.

Adjustments of Charges for Over or Under Billing:

If billing for service is found to differ from TOUA's Management Board approved rates, for the service being purchased by the Customer, or if the TOUA fails to bill the Customer for such service(s), a billing adjustment shall be calculated by TOUA.

- A. Overcharged - If the TOUA inadvertently overcharged a Customer as a result of a misapplied rate schedule or any other human or machine error, the TOUA shall, at the Customer’s option, credit or refund the excess amount paid by that Customer or credit the amount billed as provided by the following:
 - 1. If the interval during which the Customer was overcharged can be determined, TOUA shall credit or refund the excess amount charged during the interval, provided that the applicable statute of limitations shall not be exceeded.
 - 2. If the interval during which the Customer was overcharged cannot be determined, TOUA shall credit or refund the excess amount during the twelve (12)-month period proceeding the date when the error was discovered.

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3. If the exact amount of the overcharge incurred by the Customer during the billing periods subject to adjustment cannot be determined, then the credit or refund shall be based on an appropriate estimated amount of excess payment.
- B. Undercharged - If TOUA has undercharged any Customer as a result of a fraudulent or willfully misleading action of that Customer, or any action by any person (other than the employees or agents of TOUA), TOUA shall recover the deficient amount as follows:
1. If the interval during which the Customer was undercharged can be determined, then TOUA shall collect the deficient amount incurred during the entire interval, provided the applicable statute of limitations is not exceeded.
 2. If the interval during which the Customer was undercharged cannot be determined, then TOUA shall collect the deficient amount incurred during the twelve (12) month period preceding the date when the billing error was discovered by TOUA.
- C. Undercharged - If TOUA undercharged any Customer as a result of a misapplied schedule, or any human or machine error, TOUA may recover the deficient amount as follows:
1. If the interval during which a Customer was undercharged can be determined, then TOUA may collect the deficient amount incurred during the entire interval up to a maximum period of six months.
 2. If the interval during which a Customer was undercharged cannot be determined, then TOUA may collect the deficient amount incurred during the six month period preceding the date when the billing error was discovered by TOUA.
 3. The Customer shall be allowed to pay the deficient amount, in equal installments added to the regular monthly bills devoid of late charges, over the same number of billing periods which occurred during the interval the Customer was subject to pay the deficient amount.

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- D. TOUA will not adjust an overpayment by a Customer unless the claim for such overpayment, together with proper evidence, is submitted to TOUA by the Customer. All overpayments will be applied as credit on the Customer’s bill.

Bills are to be paid at the TOUA Office located west of Sells near mile marker 112 or other locations if designated by TOUA. TOUA may offer Customers other payment options, for a list of payment options contact TOUA at (520) 383-2236 or refer to the TOUA website at www.toua.net.

VI. Special Programs and Services

TOUA may offer special programs and services as approved by the Management Board. Such special programs and services may include but are not be limited to:

- Budget Billing
- Deferred Payment Plan
- Prepayment Program

Customer Service Representatives will inform Customers of any special programs that they would be eligible to participate in and explain how the special program works.

VII. Return Check Charges

TOUA has the right to demand payment for goods and service in cash, debit credit or money order, at its sole discretion. If a Customer is permitted to pay TOUA by check and the check is returned to TOUA by the Customer’s bank due to insufficient funds (NSF), a returned check service charge will be applied and the Customer’s account will be subject to disconnect. The only form of payment accepted when picking up a returned check is cash.

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If the Customer has two returned checks within a twelve month period, TOUA will no longer accept personal checks from the Customer, for a period of twelve-months. If a Customer is disconnected for a returned check, service trip charges (listed in the Schedule of Rates and Fees) will apply.

VIII. Discontinuance or Refusal of Service

A. Discontinuance or Refusal of Service for Reasons Other than Non-Payment.

1. TOUA may refuse to connect or may discontinue service for the violation of any of its Rules and Regulations, Schedule of Rates and Charges or any contract or agreement between TOUA and the Customer.
2. TOUA may discontinue service to a Customer for the theft of service(s) or the appearance of theft of devices on the premises of Customer. The discontinuance of service by TOUA for any causes as stated in this rule does not release Customer from Customer’s obligation to TOUA for any payment of any bills rendered by TOUA.
3. TOUA may refuse service if property is deemed unsafe or in violation of National Electric Code (NEC), or at the request of the electrical inspector, Indian Health Service or any agencies servicing tribal lands.
4. TOUA may refuse service if an Applicant falsifies his or her identity for the purpose of obtaining service.
5. TOUA will disconnect and may refuse service where service is connected without authority by a person who has not made application for service or when a Customer has reconnected service without authority following termination of service for nonpayment, or in instances of tampering with the TOUA's equipment or bypassing the same.
6. TOUA may refuse or disconnect service if a person who resides on the premise is delinquent or otherwise indebted to TOUA.

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7. Upon notice of the death of the Customer, the family will be given 30 days to have a family member assume financial responsibility of the subject account(s) or the service(s) will be discontinued. TOUA will accept a death certificate, prayer card or poster as documentation of the Customer’s death.
- B. Discontinuance of Service for Non-Payment of Bill
1. If payment of the bill has not been received by TOUA on or before the Due Date of the bill, a late notice will be mailed to the Customer ten (10) days after the due date. The late notice will include disconnect date for non-payment along with the delinquent amount the Customer must pay to prevent disconnection of service(s). Unpaid bills are subject to disconnect five (5) days after the late payment notice is mailed.
 2. Restoration Of Service:
 - a) Service will be restored within a reasonable length of time during regular working hours after full payment or payment arrangements have been made for all past due charges, including any payment of services charges for restoration of service. Where the history of a Customer account warrants such action, the TOUA may request the Customer to supply cash, money order, or cashier’s check in payment for the bill and service charge(s) in lieu of accepting a personal check or money not guaranteed.
 - b) At its discretion, the TOUA may restore or re-establish service that has been suspended or disconnected for nonpayment of charges prior to payment of all charges due. Such restoration or re-establishment shall not be construed as a waiver by the TOUA of any rights to suspend or disconnect service for nonpayment of charges due and unpaid, or for the violation of the provisions of these Rules and Regulations. Moreover, the TOUA’s failure to suspend or disconnect service for nonpayment of any past due account or accounts shall not operate as a waiver or estoppels to suspend or disconnect service for nonpayment of such account or of any other past due account.

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3. Customers may request a meeting with the Administrative Services Manager, or his designee, to dispute charges, as billed, prior to the next billing cycle. The disputed charges will be investigated and the Customer will be informed of the results of the investigation. If not satisfied with the results of the investigation the Customer has the right to appeal the decision to the General Manager within five (5) business days. Upon reviewing the evidence the General Manager's decision will be final.
4. Medical Exemption Form - When TOUA has a current Medical Exemption Form on file for a Customer, service may not be disconnected for non-payment. To qualify for a Medical Exemption Form, the Customer must meet the following condition/requirement:
 - a) The Customer has to establish through medical documentation that, in the opinion of a licensed medical physician, termination would be especially dangerous to the health of the Customer or a permanent resident residing on the Customer's premises
 - b) Complete the Medical Exemption Form (available at TOUA's business office) and submit it to a Customer Service Representative
 - c) After internal review, to confirm the Customer's meet the requirements for medical exemption from disconnect for non-payment, the Customer's account will be flagged for having a medical Exemption Form in file.
 - d) The Medical Exemption Form is valid for six (6) months. Every six (6) months the Customer must submit a new Medical Exemption Form to qualify for an exemption from disconnection for non-payment of their bill.
 - e) Customer(s) subject to disconnect for non-payment will not be disconnected but will be given written notice that they have fifteen (15) days to either pay the delinquent charges, make satisfactory payment

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arrangements, or to make other living arrangements. Customer(s) that fail the preceding requirements will be disconnected.

C. Customer Request for Discontinuance of Service

1. Customers shall provide TOUA a minimum of three (3) days advanced notice of their request to terminate service and provide a forwarding address for the final bill. Customers who fail to provide such notification shall be liable for any electric, water, wastewater (sewer), propane, internet, cellular and/or telephone service utilized on their premises until service is disconnected. A final bill will be issued and mailed to the Customer’s forwarding address, if provided by Customer. Failure to receive the final bill will not release Customer from payment obligation.
2. Balances due on inactive or delinquent accounts may be transferred to any other account(s) at which the same responsible parties are receiving services from TOUA. Customers will be notified of such transactions. If transferred balances remain unpaid, all active services of the responsible parties may be subject to disconnect.

IX. Customer’s Responsibility for TOUA Property

All meters, fire hydrants, valves, service connections, Optical Network Terminals (ONTs), batteries, propane tanks and other equipment furnished by TOUA shall be, and remain, the property of TOUA. Customer shall provide a space for and shall exercise proper care to protect the property of TOUA; and, in the event of loss or damage to TOUA’s property arising from neglect (defacing TOUA property with graffiti will be considered neglect) of the Customer, the cost of the necessary repairs or replacements shall be paid by Customer.

It shall be unlawful for any person to tamper with, divert, or interfere with, the operation of any equipment through which service is supplied by TOUA, or to in any way tamper with or interfere with any of the facilities of TOUA or to make improper and unauthorized

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connections thereto so as to evade, or attempt to evade, the payment of lawful service and connection charges to TOUA.

X. Equipment Tampering

All electric and water meters are the property of TOUA. All meters are legally sealed for your protection and the protection of TOUA. It is a crime to tamper with the property of the TOUA, to obstruct or interfere with the transmission of utility services or to tap utility lines under the provisions of Chapter 16 of the Criminal Code of the Tohono O'odham Nation.

Any person tampering with or interfering with any equipment of TOUA shall be presumed to have done so with the intent to evade or attempt to evade the payment of lawful service and connection charges. If evidence indicates any form of alteration to TOUA meters or other facilities, the Customer being served at that location/premise, in addition to all other penalties that may be provided by law, shall be subject to the following penalties:

- A tampering charge (per offense) in accordance with Schedule of Rates and Fees.
- Service trip fees.
- Charges for estimated amount of service that was not properly recorded due to meter tampering.
- All costs related to damages to restore or replace TOUA property.

Service will be disconnected until all fees and charges are paid in full.

XI. Customer's Responsibility for Violations

Where TOUA furnishes service(s) to a Customer, such Customer shall be responsible for all violations of these Rules and Regulations which occur on the premises so served. Personal participation by the Customer in any such violations shall not be necessary to impose such personal responsibility on the Customer of Record.

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XII. Right of Access

TOUA identified employees shall have access to Customer's premises at all reasonable times for the purpose of reading meters, testing, inspections, repairing, removing, or exchanging any or all equipment belonging to TOUA and for inspecting Customers' service and external areas of Customer's premises generally in order to secure compliance with these Rules and Regulations.

It shall be Customer's responsibility to keep the TOUA equipment visible and accessible and to refrain from any action which would interfere with the reading of the meters or the proper maintenance of the equipment by TOUA.

Customers that fence in or otherwise enclose meters, fire hydrants, valves, service connections, or any other equipment owned by TOUA, shall install a gate at least ten (10) feet wide which will allow access to facilities by TOUA vehicles. If Customer/Owner chooses to lock the gate, TOUA requires a copy of the key. The Customer is also responsible for the protection of TOUA employees from Customer's pets and animals.

If Customer fails to provide adequate access to TOUA equipment, Customer's service may be subject to disconnect. Customer will be responsible for any additional expense incurred by TOUA due to Customer's refusal to provide access. Any form of threat or intimidation will be reported to the local law enforcement authorities.

XIII. Interruption of Service

TOUA will use reasonable diligence in supplying service, but shall not be liable for breach of contract or agreement in the event of service interruption, or for loss, injury, or damage to persons or property resulting from interruptions in service, or otherwise unsatisfactory service.

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XIV. Termination of Contract

Contracts for service may be terminated prior to the expiration of the contract period provided advance notice is given to TOUA and upon agreement to pay all charges due for the service furnished plus any termination charge which may be applicable. No minimum or termination charge will apply in the event the service is terminated because of the condemnation, destruction, or damage to property by fire or other cause beyond the control of the Customer.

XV. Service Related Trouble Calls

TOUA has personnel available twenty-four hours per day to respond to service related trouble calls, Customers should call (520) 383-2236 to report problems with service.

If after normal business hours, the service technician is unable to answer your call, you will be instructed to leave your name, call back number, location/village, date, time and a brief description of your problem. The service technician will return your call as soon as possible. Please understand that the technician may be busy restoring service and may not be able to respond immediately.

For extended service interruptions Customers may check TOUA’s social media accounts for updates on efforts to restore service.

A service crew will be dispatched to investigate the source of the Customer’s problem. If the trouble proves to be in the facilities for which the Customer is responsible a service fee may be assessed and it will appear on the next monthly billing. TOUA is not responsible for making repairs to Customer’s facilities.

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XVI. Information to Customers

Information is available for the purpose of education, fairness, and communication between TOUA and its Customers.

- A. TOUA will make available to all Customers upon application for service and anytime upon request, information related to:
 - 1. current service Rules and Regulations;
 - 2. Current rates schedules, applicable to Customer and a written and/or oral explanation of the rate schedule, if requested.
- B. Service history for the preceding twelve months is available upon request. There is no charge for this service.
- C. Request for information may be made in person at the TOUA business office, by telephone or by mail.
- D. Consumers shall be notified of changes to rate schedule(s), governing policies:
 - 1. a message printed on utility bills;
 - 2. public displays in the office where bills are paid;
 - 3. public service announcements on local radio stations periodically;
 - 4. advertisement in local newspapers periodically; and
 - 5. TOUA’s webpage.

XVII. Schedule of Rates and Fees

All services shall be furnished under such rate schedules as TOUA may from time to time adopt by appropriate action of the Management Board.

XVIII. Revisions

These Rules and Regulations may be revised, amended, supplemented, or otherwise changed from time to time, without notice. Such changes, when effective, shall supersede the present Rules and Regulations and will be kept open to inspection at the TOUA business office.

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XIX. Conflict with Rate Schedules

In case of conflict between any provision of any rate schedule and the Schedule of Rules and Regulations, the rate schedule shall apply.

XX. Policy of Non-Discrimination

In accordance with Federal civil rights law TOUA and employees are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by TOUA (not all bases apply to all programs).