

EXHIBIT DDM-01



Alabama Public Service Commission

P.O. BOX 304260, 100 N. Union St., RSA Union, Suite 850, Montgomery, AL 36130

Website: www.psc.state.al.us

APPLICATION

FOR CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY
TO PROVIDE
TELECOMMUNICATIONS SERVICES
IN THE STATE OF ALABAMA

SECTION I

GENERAL

I-1 Corporate Name: _____
d/b/a (if applicable): _____

I-2 Street: _____

City: _____ State: _____

County: _____ Country: _____

Zip: _____

Telephone Number: _____

FAX Number: _____

Web Address: _____

Name of employee (s) with authority to respond to Commission requests regarding tariff/regulatory matters or financial/annual reports (list information for each):

Financial/Annual Reports

Name: _____

Official Title: _____

Direct Telephone Number: _____

FAX Number: _____

Email: _____

Tariff/Regulatory

Name: _____

Official Title: _____

Direct Telephone Number: _____

FAX Number: _____

Email: _____

Primary Contact

Name: _____

Official Title: _____

Direct Telephone Number: _____

FAX Number: _____

Email: _____

Other Contact

Name: _____

Official Title: _____

Direct Telephone Number: _____

FAX Number: _____

Email: _____

I-3 Types of services for which authority is requested. (i.e. Local Exchange Service, Long Distance Interexchange Service, Long Distance Resale Service, Alternate Operator Services, Prepaid Service, etc.) Please include all services which the company intends to provide. _____

Indicate how service(s) will be provided (i.e. Facilities-Based, UNE-P, UNE)

I-4 Attorney (if applicable) _____

Address: _____

City: _____ State: _____

Zip: _____ Telephone Number: _____

I-5 Registered Agent in Alabama: _____

Address: _____

City: _____ State: _____

Zip: _____ Telephone Number: _____

I-6 Geographic area to be served: _____

I-7 Anticipated date of service: _____

I-8 States in which applicant is authorized to provide service:

I-9 States in which applicant is currently providing service:

I-10 Mechanism by which applicant intends to bill for services:

SECTION II
ORGANIZATION

II-1 Type of Organization:

- a. Individual()
 - b. Partnership()
 - c. Corporation()
 - d. Other (Identify).....()
-

II-2 If a corporation:

- a. Attach a copy of articles of incorporation and current bylaws.
- b. Nonresident corporation - attach a copy of Certificate of Authority issued by the Secretary of State granting corporation's authority to do business in Alabama.

II-3 If a partnership:

- a. Attach a copy of the partnership agreement.
- b. Attach a list showing name and address of all partners.

SECTION III

FINANCIAL

- III-1** Attach a current certified financial statement including balance sheet, income statement, cash flow statement, and statement of retained earnings (if applicable).
- III-2** Facilities, if any:
- a. Attach statement describing means or method by which facility will be financed. (Attach copies of any agreements, commitments, or other evidence as to source and availability of capital funds.)
 - b. Attach itemized estimated cost of proposed facilities.
 - c. Attach itemized estimated operating expenses to be incurred in providing proposed service.
- III-3** Provide a list of the number of prospective subscribers and estimated annual operating revenues.
- III-4** Provide a description of any proposed or existing agreement of interconnecting service between applicant and any other telecommunications company.
- III-5** Provide a description any lease or rental contract concerning any property - (real and/or personal) possessed, controlled or occupied by applicant, or by any subsidiary to which applicant owns and in which he has a controlling interest, or any parent company of which he is a subsidiary.
- III-6** If a subsidiary corporation, provide a list of the parent organization and submit a copy of most recent annual report.

III-7 Attach statement that provides copy of three-year projected cash flow statement and/or market feasibility study.

SECTION IV

ENGINEERING

- IV-1** Provide a statement that describes fully the facility to be provided by applicant for rendering the proposed service at each location, if applicable.

- IV-2** Provide a statement that describes transmission capabilities of applicant.

- IV-3** Attach a statement that provides the location of switching equipment.

SECTION V

LICENSES

- V-1** Attach a copy of each certificate, license or other operating authority applicable to Alabama issued to Applicant by any federal authority.

SECTION VI

TARIFFS

Each applicant shall file a proposed tariff as follows:

- VI-1** The tariff must provide services and descriptions, rates or charges, rules, and regulations proposed by the company for Commission approval.
(Refer to sample tariff at www.psc.state.al.us)
- VI-2** The tariff must enumerate and define the classifications of services available to subscribers. Attach a copy of the proposed form of contract governing each service to be furnished by applicant to its subscribers.
- VI-3** Requirements for size, form identification, and filing of tariffs:
- a. All tariffs including maps shall be in loose leaf form of size eight and one-half inches by eleven inches and shall be plainly printed or reproduced on paper of good quality.
 - b. A margin of not less than three-fourths inch without any printing thereon, shall be allowed at the binding edge of each tariff sheet.
 - c. Tariff sheets are to be numbered consecutively by section, sheet, and revision number. Each sheet shall show an issue date, effective date, revision number, section number, sheet number, name of the company, name of the tariff, and title of the section in a consistent manner.

- d. An official tariff filing (original plus ten copies) shall be made to the Alabama Public Service Commission.

Overnight Delivery Address:

Secretary
Alabama Public Service Commission
RSA Building
100 N Union Street, Suite 850
Montgomery, Alabama 36101

NOTE: Applicants can elect to file an electronic copy of the application and tariff. Prior to submitting the tariff, contact the Secretary's Office at 334-242-5218 to obtain approval/authorization.

Secretary
Alabama Public Service Commission
P.O. Box 304260
Montgomery, Alabama 36130-4260

SECTION VII

SUBMISSION OF APPLICATION

All of the following must be submitted before an application will be considered valid and scheduled for hearing:

- VII-1** The application fee of one hundred (\$100) dollars made payable to the “Alabama Public Service Commission” must be attached to original copy.¹

NOTE: Any application for certification or additional/amended certification submitted to the Commission that does not have the required fee attached will be considered an invalid/incomplete application and will not be processed further.

- VII-2** An original plus ten copies of the completed application and proposed tariff must be provided.
- VII-3** Application and application fee should be submitted to the address listed in Section VI – 3.d.

¹ The *Communications Reform Act of 2005, CODE OF ALABAMA 1975*, Section 37-2A-9b, Standards for New Entrants, states: “Every application for a Certificate of Public Convenience and Necessity by a new entrant to provide telecommunications service in this state shall be accompanied by an application fee in the amount of one hundred dollars (\$100).”

SECTION VIII
REPRESENTATION

Applicant's Attorney or Representative:

Name: _____

Address: _____

City: _____ State: _____

Telephone: _____

Applicant understands that the filing of this application does not constitute nor guarantee operating authority. Applicant will submit any additional materials as required by the Commission. Applicant will also file annual/financial reports and pay annual inspection and supervision fees as required under Section 37-2-41, Code of Alabama 1975.

OATH

State

County

Personally appeared before the undersigned, an officer duly authorized to administer oaths,

who first being duly sworn, deposes and says that he is _____

of the _____

* (name of applicant) in this application, that he has read the same and knows the contents thereof, and that the statements made herein are true to the best of his knowledge and belief.

(Signature of Affiant)

Subscribed and sworn before me, this

_____ day of _____, 20 ____.

(SEAL)

My Commission Expires _____

(*) If applicant is a corporation, insert "President" or "Secretary."
If applicant is a firm or partnership, insert "Partner."

IN RE:

PETITION OF SOUTH CENTRAL BELL)	
TELEPHONE COMPANY TO	)	DOCKET NO. 24499
RESTRUCTURE ITS FORM OF)	
REGULATION)	
ALL TELEPHONE COMPANIES)	
OPERATING IN ALABAMA, GENERIC)	)	DOCKET NO. 24472
HEARING ON LOCAL COMPETITION)	
STREAMLINED REGULATION OF)	
INTEREXCHANGE CARRIER AND	)	DOCKET NO. 24030
RESELLER TELECOMMUNICATIONS)	
SERVICES)	
COMPLAINT FILED BY AT&T)	
COMMUNICATIONS OF THE SOUTH	)	DOCKET NO. 24865
CENTRAL STATES, INC. AGAINST)	
SOUTH CENTRAL BELL ON)	
APRIL 25, 1995)	

REPORT AND ORDER

BY THE COMMISSION:

BACKGROUND

The Commission opened generic Docket 24472, on January 30, 1995, to examine the possible implementation of competition in the local telephone service market. On February 2, 1995, BellSouth Telecommunications, Inc. d/b/a South Central Bell Telephone Company (SCB) filed with the Commission a petition to restructure its form of regulation and included a proposed plan for price regulation. The Commission opened Docket 24499 to consider SCB's petition. On February 13, 1995, the Commission held a pre-hearing conference on local competition and instructed the

parties to meet, to define issues in the case, and to report those findings to the Commission. On April 6, 1995, the Commission held a pre-hearing conference on the SCB price regulation docket. The parties to the proceedings were instructed to meet, to define issues in the case, and to report findings to the Commission.

On May 17, 1995, the parties filed a Stipulation with the Commission which essentially combined the issues of price regulation and local competition. The Stipulation by the parties proposed: modifications to SCB's price regulation plan; a price regulation plan for non-SCB LECs including GTE; a streamlined regulation plan for interexchange carriers and resellers; and, a plan to implement local competition. On June 14-15, 1995, the Commission held two days of hearings on the Stipulation. Testimony was heard from witnesses testifying in support of the Stipulation and from a witness sponsored by the Department of Defense. Alabama consumers were represented by the Attorney General's Office (AG) of Alabama, who also sponsored a witness.

The Alabama Legislature, during its 1995 regular session, resolved any legal impediment to the Commission's consideration of price regulation by the passage and approval by the Governor of what is now Act 95-210.

The AG met with other parties to the Stipulation to discuss proposed modifications to the proposal. As a result, a compromise was reached which included modifications to SCB's price regulation plan, agreements for further annual rate reductions by SCB through 1999, and recommendations for the Commission to consider in implementing price regulation and local competition in Alabama. On June 29, 1995, the AG filed a motion to accept and implement the Stipulation with modifications.

The Commission subsequently assigned a staff workgroup to review SCB's Price Regulation Proposal and the Stipulation of Parties, to recommend modifications consistent with the Commission's objectives and policies, and to report its findings to the Commission. On August 14, 1995, the staff briefed the Commission on its preliminary report for price regulation and local competition. The staff further modified its preliminary report based on feedback from the Commission and briefed its preliminary findings to all parties to the proceedings on August 16, 1995. The Staff Report on Price Regulation and Local Competition was submitted to and approved by the Commission on August 21, 1995. The Commission subsequently directed the staff to prepare a Price Regulation and Local Competition Plan which incorporates SCB's Price Regulation Proposal, the Stipulation of Parties, the AG's Motion to Accept and Implement Stipulation, and the Staff Report on Price Regulation and Local Competition.

OBJECTIVES

The Commission's objectives for price regulation and local competition are:

1. To create an environment in which fair and effective local competition flourishes.
2. To encourage the introduction of new technology and modern services in all areas of Alabama, both urban and rural.
3. To protect customers from unjust prices for telephone services and from deterioration of telephone service quality.
4. To establish price regulation procedures which allow the Commission to fulfill its regulatory responsibilities during the transition to a fully competitive local telecommunications marketplace.
5. To ensure universal access to telephone service in all areas of Alabama.
6. To streamline regulatory procedures, where feasible, which might encumber new entrants and incumbent providers of telecommunications services in the transition to a competitive marketplace.
7. To develop a plan which is dynamic and capable of responding to changes in legislation, new ideas, and evolving market conditions.

PRICE REGULATION

01.00 PARTICIPATION

With the exception of the rate rebalancing component, participation in this alternative regulation plan is optional for non-SCB LECs. Non-SCB LECs electing to change their form of regulation shall provide notice of their election to the Commission within ninety calendar days from the date of this Order and within thirty calendar days after the anniversary date of the plan's adoption each year thereafter. However, all LECs are subject to competition from new entrants into their local service area no later than three years from the date of this Order.

02.00 SERVICE CATEGORIES

02.01 Each LEC tariffed service is assigned to one of three categories: basic, non-basic and interconnection.

02.02 Basic services are those basic local exchange services provided to business and residence

customers which are generally necessary to make or receive a call within the local calling area, including area calling service. The following SCB services are considered basic:

<u>SERVICE</u>	<u>REFERENCE</u>
Area Calling Service	A3.2.9
Flat Rate Service	A3.7.1
Measured Rate Service	A3.7.4
Local Exceptions	A3.10
Network Access Register Usage Package	A3.12
Auxiliary Line Service	A3.17
Grouping Service	A3.19
Trunk Lines	A3.20
Multiline Service	A3.21
Network Access Service	A3.26
Trunk Side Access Facility	A3.28
Classroom Communication Service	A3.32
Back-Up Line	A3.38
Service Connection Charges	A4.
Semi-public Telephone Service	A7.2.4
Access Line Service for Customer Provided Telephones	A7.4
SmartLine Service for Public Telephone Access	A7.8

The basic service category for all LECs will correspond functionally with the above list of SCB services.

02.03 Non-basic services are all those services, excluding interconnection services, which do not meet the definition as stated above for basic services. The non-basic category includes the myriad of services provided by LECs which are considered optional, supplemental, and/or discretionary in nature.

02.04 Interconnection services allow other telecommunications providers to interconnect to the LEC's network in order to originate or terminate calls. The interconnection category includes switched access and local interconnection services.

02.05 The Commission will conduct a workshop to study the appropriateness of Area Calling Service (and other local calling plans) and Lifeline Service for the non-SCB LECs. The workshop will focus on any changes to Area Calling Service which may be necessary to transition the non-SCB LECs to a more fully competitive local market and on plans for introducing Lifeline Service. Subsequently, the Commission may reassign Area Calling Service to the non-basic category.

02.06 Along with its filing for the introduction of a new service, the LEC shall request assignment of the service into one of the three service categories. The LEC may also request the re-classification of any service previously assigned to one of the three service categories. The LEC is

responsible for providing appropriate justification to the Commission to support its request.

02.07 The Commission shall make the final determination regarding the classification or re-classification of any service in accordance with the provisions of the Tariff Requirements section of this Order (**13.00**).

03.00 CHANGES TO EXISTING PRICES

03.01 SCB will adjust existing prices for basic services as follows:

1. The Company will implement a \$10.2 million reduction in Basic Business and Residence Service, effective July 1, 1995, to eliminate the embedded TouchTone rate and any charge for TouchTone Service.
2. Effective July 1, 1996 (or at the Company's discretion, earlier), the Company will implement a \$15.3 million reduction in Residence and Business Local Exchange Service by consolidating Rate Groups 7 and 8 into Rate Group 6.
3. Effective July 1, 1997 (or at the Company's discretion, earlier), the Company will implement a \$10.1 million reduction in Area Calling Service usage rates, Grouping Service rates, and Business Basic Service rates.
4. Effective July 1, 1998 (or at the Company's discretion, earlier), the Company will implement an \$11 million reduction consisting of (1) a total reduction of \$6 million in long distance rates and Area Calling Service rates (as required to maintain proper rate relationships), and (2) a \$5 million reduction in Residential Services included in the Basic Services category, with preference to reductions in local exchange rates, with the limitation that no rate shall be reduced below its incremental cost. Should this limitation restrict such reduction, the residual rate reduction shall apply to Business Services included in the Basic Service category.
5. Effective July 1, 1999 (or at the Company's discretion, earlier), the Company will implement an \$11 million reduction consisting of (1) a total reduction of \$6 million in long distance rates and Area Calling Service rates (as required to maintain proper rate relationships), and (2) a \$5 million reduction in Business Services included in the Basic Service category.

03.02 The non-SCB LECs are authorized to transition, within five years, revenues lost from reductions in intrastate access charges to prices for basic service rates provided that: (1) such rate increases are only authorized for basic service rates which are below the rate for SCB Rate Group 6, following elimination of the embedded TouchTone charge (hereafter referred to as "SCB revised Rate Group 6"); (2) residential rates shall not exceed SCB revised Rate Group 6 rates with a business rate threshold of twice the residential rate for the non-GTE LECs; (3) increases are

authorized only to the extent that they are revenue neutral in relation to revenue losses from access charge reductions. The Commission staff will verify that the effects of rate rebalancing are revenue neutral based on access line data in effect at the time of the rate change with no adjustments for subsequent line growth. The Commission reserves the right to make any modifications to basic service rates necessary to ensure compliance with this requirement. Further, Touchtone service is henceforth considered an integral and non-separable component of basic service and any additional charge for this service shall be eliminated under the rate rebalancing process.

03.03 Participating non-SCB LECs will reduce basic service rates which exceed those for SCB's revised Rate Group 6 by reducing, each year for four years, monthly residential rates by \$1 and monthly business rates by \$2, to include any applicable touchtone charge embedded in the basic service rate or otherwise, provided that reductions shall not be required below the rates in effect for SCB revised Rate Group 6. The preceding applies to GTE for all of its exchanges with basic service rates that exceed SCB revised Rate Group 6, except: Brilliant, Falkville, Guin, Hackleburg, Hamilton, Jemison, Massey, Oden Ridge, Phil Campbell, Thorsby, and Winfield. For those exchanges, the Company shall reduce, each year for three years, monthly residential basic service rates by \$1 and monthly business service rates by \$2, provided no decreases are required below the rates for SCB revised Rate Group 6. In the fourth year, the rates for those exchanges shall be further reduced to those in effect for SCB revised Rate Group 6.

03.04 A schedule of rate increases/decreases for all non-SCB LECs under this plan will be determined in a Commission workshop.

03.05 Subject to the provisions of sections **03.01** through **03.04**, the basic service rates of the LECs are acceptable for purposes of implementing price regulation.

04.00 EXPLANATION OF TERMS

04.01 The Gross Domestic Product Price Index (GDP-PI) is a measure of inflation in the market prices of output in the economy. The GDP-PI measures the value of output produced by people, government, and firms in the United States, whether they are U.S. or foreign citizens, or American or foreign owned firms. The GDP-PI is calculated and published quarterly and annually by the U.S. Department of Commerce and is the government measure which best corresponds to the telephone industry.

04.02 The Price Regulation Index (PRI) is based on the annual change in the GDP-PI and is used to establish a ceiling on basic service price increases. The PRI Report is filed annually with the Commission.

04.03 Total Factor Productivity (TFP) is the ratio of total output to total input, where total output includes all services provided by the Local Exchange Carriers (LECs) and total input includes the capital, labor, and materials used to provide those services. The Efficiency Factor is the estimated

differential in productivity growth between the LECs and the U.S. economy and is used to adjust the change in the GDP-PI for the higher productivity growth of LECs.

04.04 The Service Price Index (SPI) is a cumulative measure of price changes. The SPI Report is used to: (1) compare the new PRI to the Present SPI for the purposes of establishing whether any price increases are authorized; (2) measure the aggregate change in revenue between existing and proposed prices of individual services within a category; (3) calculate a New SPI based on proposed price increases; and, (4) compare the New SPI to the New PRI to determine if the proposed price changes are authorized. A SPI Report is filed annually and each time a change in prices is proposed.

04.05 The “anniversary date” is the effective date of this Order.

04.06 “GTE” includes GTE and its (formerly) CONTEL holdings.

04.07 SCB Rate Group 6 is the benchmark residential rate adopted in this plan on a going forward basis. After the reduction of the embedded TouchTone charge, the residential rate is estimated to be \$16.30 (referred to as SCB revised Rate Group 6). The benchmark is based on analysis by the staff of the average long run incremental cost for SCB’s access lines, less the FCC End User Line Charge. SCB will have residential rates which are below this benchmark but, after the rate reduction referenced in section **03.01 B**, the Company’s rates will not exceed SCB revised Rate Group 6. In fact, as referenced in section **03.01 D**, SCB’s rates for basic residential service may be decreased further.

04.08 “Rate rebalancing” is the process whereby non-SCB LEC revenue losses from reductions in access charges are recovered through increases to local rates in all exchanges where the existing residential rates are lower than SCB revised Rate Group 6. Rate rebalancing will be accomplished on a revenue neutral basis. Therefore, though SCB revised Rate Group 6 is the approved ceiling for residential rates under rate rebalancing, LECs may have residential rates which are below this price. The basic service reductions referenced in section **03.03** are not a part of the rate rebalancing plan but, instead, is a “good faith” offering on the part of the non-SCB LECs. After these reductions are accomplished, all but a few exchanges in Alabama will have residential basic service rates which are at or below SCB revised Rate Group 6. The exceptions are a small number of exchanges where the customers elected to increase their basic service rates in order to obtain extended area service (EAS) into a large metropolitan area. Still, their residential rates will decrease by \$4 per month, from existing levels, after the reductions referenced in section **03.03** are accomplished.

04.09 The Primary Carrier Plan (PCP) is an intraLATA toll fund administered by SCB for all participating Alabama LECs. The PCP focuses on intraLATA minutes of use (MOUs), where SCB is the primary carrier. SCB’s payment to the participating non-SCB LECs, of traffic sensitive access charges, is based on originating/terminating MOUs. A separate portion of the PCP consists of nontraffic sensitive (NTS) intrastate access charges for the non-SCB LECs. MOUs were “frozen” at the December, 1990 inception of this NTS portion of the PCP and permitted to increase only by an allowance for annual access line growth. Disbursements to the non-SCB LECs are based on their

1990 MOUs adjusted by an allowance for access line growth. The NTS portion of the PCP is in the process of being phased-down by 25% per year over four years. Prior to the date of this Order, the third year of the phase-down had been accomplished.

04.10 The Alabama Service Fund (ASF) is an interLATA access fund administered by Gulf Telephone Company for all participating non-SCB/GTE LECs. While the traffic sensitive portion of access charges (and the nontraffic sensitive charges which do not exceed interstate CCLC) are billed directly to the Carriers by the LECs, the ASF consists of the NTS portion of intrastate access charges, which exceed interstate Common Carrier Line Charges (CCLC). Revenues were “frozen” at the plan’s February, 1993 inception and permitted to increase only by an allowance for annual access line growth. The pool administrator bills each IXC and reseller for the portion of the ASF based on their percentage of total originating and terminating access minutes.

05.00 SERVICE QUALITY

05.01 Four service quality standards will be used for the purposes of the SCB PRI. These standards will be analyzed on an annual basis and can impact the PRI levels associated with annual filings.

1. Overall trouble report rates (for non-memory services) for the latest 12 month period will be calculated and limited to 2.42% of access lines, on the average.
2. Trouble report rates (non-memory services only) of individual wire centers for the latest 12 month period will be calculated and limited to 1 wire center with a trouble report rate average of greater than 5% of access lines.
3. Held applications for the latest 12 month period will be limited to an average of 0.015% of access lines.
4. Receipt-to-final status times (the time it takes to close a trouble report from the point that the trouble report was received) will be tracked for the latest 12 month period and will be limited to 72% of troubles closed within 36 hours.

05.02 In the event that one or more of these standards is not met, the efficiency factor will be increased by 0.2% for each standard missed. If only one standard is missed, then the factor is set at 3.2%; if two standards are missed, the factor increases to 3.4%; if three are missed, the factor increases to 3.6%; and if all four standards are missed, the efficiency factor is set at 3.8%. If all standards are met by the Company, the efficiency factor remains at 3.0%. Attachment 1 describes the calculations associated with these service quality standards.

05.03 The service quality standards to be used in the non-SCB LEC’s PRI will be determined in a

Commission workshop with consideration given for LEC size. At a minimum, three such standards will be utilized with a total value for all three of 0.75% (i.e., 0.25% each).

05.04 In the event of unusual occurrences, such as winter storms, hurricanes, floods, etc., LECs may petition the Commission for relief from some or all of the service quality standards, during the affected period.

05.05 The limited scope of service quality standards used in the PRI in no way relieves LECs from compliance with all of the Commission's prescribed telephone service quality standards and objectives.

06.00 PRICING RULES - BASIC SERVICE CATEGORY

06.01 For the first five years after approval of the Order, all prices within the basic category are capped at the price levels in effect, subject to the modifications referenced in sections **03.01** through **03.04**. However, the Commission reserves the right to review the extent to which local competition exists, prior to the elimination of the cap, and to consider additional remedies necessary for the protection of basic service customers. This modification is consistent with the proposed Commission objective to "protect customers from unjust prices for telephone services and from deterioration of telephone service quality".

06.02 Beginning with the anniversary date in which the cap on the prices of basic services ends, prices are authorized to increase based on annual changes in the GDP-PI, reduced by an efficiency factor, and any penalties for missing the service quality parameters referenced in sections **05.01** through **05.03**.

06.03 The efficiency factor is initially set at 3% for SCB and 1% for all non-SCB LECs. The Commission will conduct a workshop to address study procedures and plans for performing a regional and/or Alabama specific total factor productivity study. Consequently, the Commission reserves the right for further review and modification of the prescribed efficiency factor for SCB and the non-SCB LECs.

06.04 Immediately following the expiration of the price cap for basic services and annually thereafter on the anniversary date (or on a modified filing schedule as per section **06.05**), LECs will file with the Commission:

1. The PRI Report, as shown on Attachment 2, page 1 of 3.
2. The SPI Report I, as shown on Attachment 2, page 2 of 3.
3. The SPI Report II, as shown on Attachment 2, page 3 of 3.

06.05 In order to more efficiently allocate its resources, the Commission may establish staggered PRI/SPI filing dates for the non-SCB LECs providing that this administrative action shall not

otherwise delay implementation of the non-SCB LEC price regulation plan.

06.06 General PRI/SPI Procedures

1. The PRI Report is filed annually with the Commission and is not filed again until the subsequent annual filing date.
2. The New PRI is calculated, and entered on line 7 and line 1 of the SPI Report II. The Present SPI must be less than the new PRI in order for any price increases to occur (line 3 of SPI Report II).
3. If price increases are authorized, SPI Report I is used to record the present and proposed prices. Items F and G are calculated and used on line 4 of SPI Report II to determine the Change in SPI.
4. A New SPI is calculated on line 5 of SPI Report II. It is then compared to the PRI to determine whether the proposed increases are authorized (line 6).

06.07 Each time prices for services within a category are changed, on or during the interim between annual filings, a new SPI Report (I and II) is calculated and filed with the Commission. These reports must be updated as necessary based on Commission action regarding the tariff filing(s). LECs may increase some prices while decreasing others, as long as the SPI for the category is less than or equal to the PRI.

06.08 Residential service prices are included in the SPI calculations for determining the aggregate price change in the basic services category. However, the price for individual residential services will not be raised at a rate greater than the Adjusted GDP-PI. SPI Report I has a column entitled “Basic Residential Services Only” which will be used to ensure compliance with this requirement.

06.09 LECs may choose to defer an allowed price increase and subsequently increase rates as long as the SPI remains less than or equal to the PRI. Following the elimination of the price cap on basic services, price increases may be made at any time, not just at the time of the annual filing. However, the SPI must always remain less than or equal to the PRI. Price decreases may be made at any time including the price cap period.

06.10 All PRI and SPI calculation results will be filed with the Commission. The calculations will be furnished to the staff on a proprietary basis.

06.11 Annual Demand (SPI Report I Column A)

1. Demand for recurring elements is established by multiplying the latest available month’s

quantities by 12. Demand for non-recurring elements is established by using the latest available 12 month's quantities.

2. New services are included in the SPI Report provided the latest available 12 month's quantities include at least six months of demand quantities for the service, whereupon the demand for recurring elements is established by multiplying the latest available month's quantities by 12 and demand for non-recurring elements is established by annualizing the latest available 6 month's quantities. Until the demand quantities for new services are included in the SPI Report filed with the Commission, prices for these services may be decreased but no price increases are authorized unless a waiver is requested from and granted by the Commission.

06.12 Within 90 days after the implementation of price regulation and annually on the anniversary date thereafter, during the period in which basic services are capped, all LECs will file an SPI Report I for the basic services category. This report will be used to verify that no increases are made to the prices for basic services other than those authorized under the non-SCB LEC rate rebalancing plan or as otherwise approved by the Commission. Each time price changes are made, to include changes as part of the rate rebalancing plan, LECs will file an updated SPI Report I. An SPI Report I is also required when the price cap period for basic services expires and annually on the anniversary date thereafter (or on a modified filing schedule as per section **06.05**).

06.13 All SPI/PRI filings will be made electronically to avoid duplication of effort and the potential for errors involved with user input of computer data. The appropriate spreadsheet/database application to be used for the filings and arrangements for the transfer of data either by floppy disk or by modem will be resolved in a Commission workshop. As a security measure for proprietary information, files may be stored on disk with password protection. All filings will be electronically or manually archived for future referral by both the Company and the Commission.

07.00 PRICING RULES, NON-BASIC SERVICES CATEGORY

07.01 No price increases are authorized in this category for the first 12 months that the LEC is regulated under price regulation.

07.02 Beginning with year two, the aggregate prices in this category can be increased, but only at a maximum of 10% for a given year (from one anniversary date to the next). Price decreases may be made at any time following implementation of price regulation. Individual prices may be increased

more than 10%, as long as other prices are increased less than 10% or decreased, resulting in an aggregate price increase for the category of no more than 10%. The LEC may request Commission approval of price changes at any time.

07.03 Within six months from the implementation of price regulation and annually on the anniversary date thereafter (or on a modified filing schedule as per section **06.05**), all LECs will file an SPI Report I for the non-basic services category using the procedures identified in section **06.13**. Item H in this report will be used to verify that increases are made in compliance with section **07.02**. During the period between annual filings, LECs will file an SPI Report I each time price changes are proposed. This report must be updated as necessary based on Commission action regarding the tariff filing(s).

08.00 SUMMARY OF PRI/SPI REPORT FILING REQUIREMENTS

1. Basic Services Category

1. Initial PRI due immediately following the expiration of the cap on prices for basic services and annually thereafter on the anniversary date (or on a modified filing schedule as per section **06.05**).

2. Initial SPI Report I due within 90 days after the implementation of price regulation and annually thereafter on the anniversary date during the price cap period for basic services. An SPI Report I is also required when the price cap period for basic services expires and annually on the anniversary date thereafter (or on a modified filing schedule as per section **06.05**)¹.

3. Initial SPI Report II due immediately following the expiration of the cap on prices for basic services and annually thereafter on the anniversary date (or on a modified filing schedule as per section **06.05**)¹.

2. Non-Basic Services Category

Initial SPI Report I due within six months from the implementation of price regulation and annually on the anniversary date thereafter (or on a modified filing schedule as per section **06.05**)¹.

¹ Must be filed each time price changes are proposed. The Report must be updated, as required, based on subsequent Commission action on the tariff filings.

09.00 INTERCONNECTION SERVICES

09.01 With the Commission's approval of price regulation, South Central Bell's intrastate switched access prices shall be reduced to equal the August 1, 1995, FCC interstate rates and reduced further

by one cent per minute for two ends of access.

09.02 SCB's intrastate switched access prices shall be reduced an additional 1/2 cent on July 1, 1996, an additional 1/2 cent on July 1, 1997, an additional 1/4 cent on July 1, 1998, and an additional 1/4 cent on July 1, 1999, for a total additional reduction in intrastate switched access charges of one and one-half cents for two ends of access.

09.03 South Central Bell will continue to price its intrastate switched access charges at or below interstate levels for an initial five (5) year period for each rate element. Therefore, should any subsequent interstate switched access rate changes result in intrastate access rate element(s) which are less than those referenced in sections **09.01** and **09.02**, then the intrastate access rate element(s) shall be reduced to the interstate level and any forthcoming reductions described in section **09.02** shall be decreased accordingly. The corresponding adjustment of the scheduled intrastate access reductions referenced in section **09.02** shall be by an amount equal to the reductions required because of the interstate access reduction(s). The adjustment shall be made to the next scheduled intrastate reduction referenced in section **09.02** and, if necessary due to the magnitude of the interstate changes, to the succeeding scheduled reduction(s) thereafter. A reduction of 2.5 cents from the August 1, 1995 FCC rates will result from the agreement unless the commitment to cap rates at interstate levels causes a reduction which is greater than 2.5 cents. This could occur if the magnitude and timing of the interstate reduction(s) is such that the pending intrastate reductions referenced in **09.02** cannot be sufficiently adjusted to compensate for the interstate reductions. The 2.5 cent reduction will be applied to the CCL and RIC components of switched access and/or a Universal Service Fund, if the CCL and RIC are a part of this fund. The reductions will not be used for purposes of implementing zone pricing.

09.04 At the end of the initial five (5) year period of the plan, intrastate switched access prices and structures (on a rate element basis) will continue to be capped at the lower of the intrastate rates in effect on July 1, 1999, or the effective interstate prices and structures approved by the FCC. Ultimately, however, the rates for intrastate access and interstate access should be the same. In addition, this continued cap on intrastate access charges may be re-examined by the Commission upon application by any affected party.

09.05 The PCP (**04.09**) and the ASF (**04.10**) will continue to operate. A new fund: the Transition Fund for SCB and the IXCs/resellers, will be initiated following the Commission workshop referenced in section **09.07**. The Transition Fund will be allocated the revenue differential between the existing non-SCB/GTE LEC intrastate access rates and the initial intrastate access reduction to \$0.054 for each end of access. On September 1, 1996, intrastate access rates for the non-SCB/GTE LECs are reduced to \$0.043 for each end of access and the revenue associated with the difference, between \$0.054 and \$0.043 for each end of access, moved to the Transition Fund. On September 1, 1998, intrastate access rates for the non-SCB/GTE LECs are reduced to \$0.032 for each end of access and the revenue associated with the difference, between \$0.043 and \$0.032 for each end of access, moved to the Transition Fund. Priority of reductions is to the CCLC and RIC rate elements followed by the Local Switching rate element. The revenue associated with the Transition Fund will

be permitted to increase based on an allowance for access line growth. SCB and IXCs/resellers will pay non-SCB/GTE LECs the required Transition Fund revenues based on their portion of the total intrastate minutes of use (MOUs).

09.06 The NTS portion of the PCP (which exceeds interstate CCLC) and the entire ASF will be eliminated, in tandem, as the initial priority under the rate rebalancing plan.

09.07 Lost revenue from the phased elimination, referenced in section **09.06**, will be transitioned to the local service rates of the non-SCB/GTE LECs according to the terms and conditions referenced in sections **03.02** and **03.04**. The revenue associated with any additional local service rate increases, approved by the Commission for the non-SCB LECs under the rate rebalancing plan, will be applied toward elimination of the Transition Fund. The Commission will conduct a workshop to:

1. Calculate the revenue loss associated with the provisions of section **09.06** for each non-SCB/GTE LEC.
2. Calculate the Transition Fund revenues applicable to each non-SCB/GTE LEC.
3. Develop procedures and methods applicable to the new Transition Fund.

Parts A and B (above) will be used in the Commission workshop referenced in section **03.04**.

09.08 Pending the elimination of the entire ASF and the NTS portion of the PCP (in excess of the interstate CCLC):

1. SCB will fund the PCP and the primary carrier portion of the Transition Fund.
2. IXCs/resellers will fund the ASF and the interLATA portion of the Transition Fund.

09.09 Following the September 1, 1996 non-SCB/GTE intrastate access reduction to \$0.043 for each end of access, SCB's payments into the separate fund for ACS MOUs will be reduced by approximately \$0.011 (existing terminating access cost - \$0.043). The payments for ACS MOUs will be further reduced by approximately \$0.011 after the September 1, 1998 access charge reduction.

09.10 On July 1, 1995, GTE reduced its composite intrastate switched access rates by 1/3 of the difference between its intrastate access prices and \$0.064 per minute (for two ends of intrastate switched access). On July 1, 1997, GTE will further reduce its composite intrastate switched access rates by an additional 1/3 of the difference between its intrastate access prices prevailing on July 1, 1995, and \$0.064 per minute (for two ends of intrastate switched access). On July 1, 1998, GTE will reduce its composite intrastate switched access rates to \$0.064 per minute (for two ends of intrastate switched access). Access reductions will be targeted to the CCL and RIC elements. After July 1, 1998, intrastate access rates will be capped at the lower of \$0.064 per minute (for two ends of access) or GTE's interstate rates. However, this continued cap on intrastate access charges may be re-examined by the Commission upon application by any affected party. GTE will transition revenues lost through access reductions to local rates as provided in sections **03.02** and **03.04**.

10.00 FLOW THROUGH OF INTRASTATE ACCESS REDUCTIONS

10.01 IXC and reseller intrastate toll reductions will coincide with the effective date of SCB's reduction in intrastate access charges. Such reductions in intrastate toll rates will be on a dollar for dollar basis relative to SCB's intrastate access reductions (subject to verification by the Commission staff).

10.02 It is the Commission's intent that any savings to IXCs and resellers resulting from access reductions associated with the non-SCB LECs rate rebalancing plan similarly coincide and flow through to intrastate toll rates on a dollar for dollar basis. Consequently, a Commission workshop will be conducted to develop procedures that ensure compliance with this intent.

10.03 The purchasers of intrastate access will coordinate with SCB to establish an effective date for the scheduled 1995 intrastate access reductions. That date will be as soon as practical following the date of this Order.

10.04 SCB and the IXCs/Resellers are provided the flexibility to modify the day of the month for future intrastate access charge reductions, as referenced in section **09.02**, for the purpose of establishing an effective date for the joint reductions to coincide.

10.05 The Commission shall maintain its available remedies, including the ordering of refunds of unauthorized rate differentials in the form of credits to customer bills if: (1) intrastate toll reductions by purchasers of intrastate access are filed to become effective after the effective date of the SCB access charge reductions, and/or (2) the Commission finds that purchasers of intrastate access have not fully complied with the requirement to reduce intrastate toll rates on a dollar for dollar basis, and/or (3) intrastate toll reductions by purchasers of intrastate access are not in compliance with the procedures to be developed as referenced in section **10.02**.

11.00 OTHER PRICING RULES

11.01 The price for any new or existing service shall equal or exceed its long run incremental cost (LRIC) unless: (1) specifically exempted by the Commission based on public interest concerns, or (2) LECs in good faith, and upon Commission approval, price the service to meet the equally low

price of a competitor. Part (2) will apply to all non-SCB LECs after the period of limited protection from competition has expired, or earlier, if the Commission authorizes local competition as referenced in section **16.03**.

11.02 In the event that SCB prices a service below cost to meet the equally low price of a competitor, the universal service fund which may exist cannot be utilized to make SCB whole for the resulting monetary shortfalls. Application of this rule to the non-SCB LECs will be addressed in a Commission workshop regarding the universal service fund.

11.03 With respect to existing services that are priced at or above cost at the inception of this plan, no price reductions will result in rates that are below cost unless approved by the Commission. Services priced below cost shall not be reduced until the prices exceed cost, unless approved by the Commission.

11.04 LECs will provide required cost data to the Commission to document compliance with sections **11.01** through **11.03**. To the extent that such cost data is proprietary, it will be subject to the Commission's rules for such data.

12.00 EFFECTS OF EXTRAORDINARY GOVERNMENTAL ACTIONS

12.01 The financial impact of governmental mandates, both state and federal, which apply specifically and/or disproportionately to, and have a major impact on telecommunications companies, may be recovered through an adjustment to prices for interconnection, basic and/or non-basic services. In such event, LECs shall notify the Commission of their intent to adjust prices. Such notice shall provide schedules and appropriate tariffs for the adjusted prices and their effective date.

12.02 A "major" impact is an amount (intrastate only) exceeding two percent of total intrastate regulated revenues booked in the preceding calendar year. Should there be such an impact, the PRI calculation will include an appropriate adjustment. Procedures for adjusting the PRI will be addressed in a Commission workshop.

12.03 In order for pricing adjustments to occur under this provision, LECs must demonstrate to the Commission's satisfaction that the GDP-PI does not accommodate the effect of the extraordinary event. Further, the Commission can initiate a proceeding on its own motion or on the motion of any ratepayer.

12.04 The use of the universal service fund for purposes of "making whole" non-SCB LECs for revenue losses not recovered through price increases under sections **12.01** and **12.02**, shall be addressed in a Commission workshop following the date of this Order.

13.00 TARIFF REQUIREMENTS

13.01 Tariffs will continue to be required for all basic, non-basic, and interconnection services,

unless otherwise de-tariffed by the Commission.

13.02 All tariff filings for price decreases and promotional offerings will have an interval between the filed and effective dates (hereafter referred to as “effective date”) of no less than 15 calendar days. The tariffed list of authorized services offered via contract service arrangement, on a case by case basis, may be expanded to include other competitive services. Tariffs to expand the list will have an effective date of 30 days.

13.03 Filings for decreases, promotional offerings, and any expansion of services to the approved list of contract service arrangements may be suspended to a 60 day effective date due to Commission investigation or third party intervention. Suspension of the effective date for these tariffs is warranted because of possible customer inconvenience that could result if interim approval were authorized and the Commission subsequently disallowed the filing.

13.04 Because of the relatively abbreviated effective date associated with tariffs for decreases and promotions, a letter from the Commission will be utilized as the “action” for suspending the effective date of these filings.

13.05 All tariff filings for price increases, to include proposed price increases associated with filings under the Effects of Extraordinary Governmental Actions, and filings for the introduction of new services will have an effective date of no less than 30 calendar days. This 30 day period may be extended to 60 days from the file date by action of the Commission. A 30 day effective date will apply to any request for shifting services between categories.

13.06 Tariff filings, along with any categorization of services as basic or non-basic, will become effective as filed, unless there is intervention by a third party or investigation by the Commission. If such third party intervention or Commission investigation of tariff filings for price increases or for categorization of services occurs, said tariffs will be allowed to go into effect subject to a decision by the Commission that the tariff filings are appropriate, just and reasonable. Third party intervention or Commission investigation of tariff filings for price decreases, promotional offerings, and any expansion of services to the approved list of contract service arrangements will result in such filings being suspended pending a decision from the Commission. Except as noted below, the Commission must enter its decision on tariff filings within sixty (60) calendar days following the filed date of said tariffs. If no such decision on a filing is made within this period, the filing shall become effective on a continuing basis on the 60th day. With the exception of filings for price decreases, promotional offerings, and contract service arrangements, this period can be extended by the Commission, either on its own motion or at the request of an interested party, if substantially in the public interest, with such additional amount of time not to exceed sixty (60) days, for a total of 120 days. Should the Commission determine after investigation that a tariff filing is not appropriate, just and reasonable, the Commission will maintain its available remedies. In addition, the Commission shall have authority, through agreement of all the parties to this proceeding, to require adjustments to customer bills for rate differentials which are subsequently disallowed. Said adjustments shall be authorized from the date the tariff became effective through the date of its

disapproval.

13.07 The following is a summary of tariff requirements:

<u>Effective Date (Days)</u>	<u>Type Filing</u>	<u>Extendable by Commission Action to (Days):</u>	<u>Extendable for Investigation and/or due to Intervention (Days)</u>
15	Decreases, Promotions	N/A	60 ¹
30	Contract Service Arrangements	N/A	60 ¹
30 ²	Increases ³ , Introduction of New Services	60	60 ⁴
30	Transfer of Services Between Categories, and all others	N/A	60 ⁴

¹ If suspended, will not go into effect until the earlier of 60 days or the date of a final Commission decision.

² Effective date may be extended by Commission action to 60 days.

³ Includes filings for increases under the Effects of Extraordinary Governmental Actions.

⁴ May be extended by the Commission to a maximum of 120 days.

14.00 REPORTING REQUIREMENTS

14.01 SCB shall provide the Commission with financial results in the form of a monthly Alabama income statement and such other interstate and intrastate financial reports which may be required by the Commission.

14.02 SCB shall provide the Commission with service quality information on a monthly basis. This information, as referenced in Attachment 1, will include:

1. A report, by wire center, of trouble report rates for the most recent 12 months.
2. A report of held applications for the most recent month and held application rates for the most recent 12 months.
3. The Access and Services Report II as required to determine the monthly number of access lines in service.
4. Trouble report receipt-to-final status times for the most recent 12 months.

14.03 The monthly financial and service quality reporting requirements for the non-SCB LECs will be addressed in a Commission workshop.

14.04 Commission approval of LEC depreciation rate changes is required until the period of limited protection from competition has expired.

14.05 All LECs will file PRI/SPI Reports as referenced in sections **06.00** through **07.00**.

15.00 INFRASTRUCTURE AND SERVICE COMMITMENTS

15.01 The non-SCB LECs commit to provide:

1. 100 percent digital, stored program control switching for all exchanges within three years.
2. The availability of Custom Calling and Class services to at least 75% of their customers within three years and to all customers within five years of their election to participate in the Alternative Regulation Plan.

15.02 Commitments for Custom and Class services availability will be measured in terms of the latest available access line data (i.e., [total access lines at wire centers with Custom and Class services capability/total access lines in service] X 100). The status of both commitments will be provided on any service quality reports required by the Commission for non-SCB LECs, referenced in section **14.03**.

15.03 The Commission, through agreement of all parties to the proceeding, reserves the right to apply a \$0.50 per month - per line penalty (\$1.00 for business) in the price of residential and business basic exchange service (to include the flat rate portion of ACS type offerings) for each of the above commitments that the LEC fails to achieve within the prescribed time referenced in section **15.01**. The penalty will be applied as a credit to the monthly bills of customers in the exchanges for which the commitment(s) was not honored until such time as the LEC fulfills its commitment.

15.04 Before the application of any such penalty, however, the LEC will be granted sufficient opportunity to provide the Commission with details concerning their failure to honor the commitment and to offer reasonable redress.

16.00 LIMITED PROTECTION FROM LOCAL COMPETITION

16.01 Except as provided in section **16.03**, no certificates of public convenience and necessity shall be issued to provide local exchange service in an area serviced by an existing non-SCB LEC until the earlier of:

1. three years after the Commission Order for this docket, or
2. two years after the non-SCB LEC obtains authority from the Commission to provide local exchange service to areas outside of its existing local exchange area.

16.02 Should any non-SCB LEC utilize its local exchange facilities to provide video dial tone or cable service, the incumbent cable company (or companies) may seek a certificate from the Commission to serve the LEC service area. LECs which were authorized to provide video services in a particular service area, prior to the effective date of this Order, shall not be affected by this provision and shall not lose such protection.

16.03 The Commission reserves the right to authorize competition in any non-SCB LEC service area provided that:

1. the Commission conduct formal proceedings by its own motion or at the request of an interested party (excluding any party to the Stipulation), and that
2. the non-SCB LEC is allowed to complete rate rebalancing, on an accelerated schedule approved by the Commission, before any certificate is granted to new entrants into the LEC's local service area.

This provision is not intended to restrict the entry of affected local cable TV companies should a non-SCB LEC elect to provide video dial tone or cable service under the terms and conditions referenced in section **16.02**.

17.00 COMMISSION REGULATION AND OVERSIGHT

Price regulation in no way diminishes the Commission's right or responsibility to regulate LECs and to oversee their operations. The Commission will remain actively involved in public interest concerns, such as what consumers pay, the quality of services received, availability of services and new technologies, universal service, etc. With price regulation, prices charged to customers become the financial focus of the Commission, rather than the earnings of LECs. Other regulatory issues and requirements remain pertinent. Further, nothing herein shall release LECs of their ongoing obligation to provide financial, cost or other related data that the Commission requires.

18.00 IXC AND RESELLER STREAMLINED REGULATION PLAN

18.01 All interexchange carriers and resellers shall continue to file tariff revisions with the

Commission for informational purposes only. All new service introductions and rate decreases shall be effective five (5) days after filing. All increases in rates shall be effective seven (7) days after filing.

18.02 Interexchange carrier and reseller rates charged for all services shall continue to be compensatory (i.e., each service must recover total access charges plus billing and collection costs on that service).

18.03 Interexchange carriers and resellers shall not obsolete any service offering without prior approval of the Commission.

18.04 All interexchange carrier and reseller services shall be available for resale.

18.05 No interexchange carrier or reseller shall be relieved of its obligation to serve its existing service areas in the State of Alabama without the approval of the Commission.

18.06 No interexchange carrier or reseller shall be relieved of its obligation to pay for access services used.

18.07 No interexchange carrier or reseller shall geographically de-average its intrastate rates without approval of the Commission.

18.08 No interexchange carrier or reseller shall be relieved of its obligation to comply with any legislative mandate implemented by the Commission regarding revisions to toll rates and services. Further, all interexchange carriers and resellers shall comply with sections **10.00** through **10.05** of this plan regarding the “flow through” of intrastate access charge reductions to intrastate toll rates.

18.09 There shall be no modification to any interexchange carrier's or reseller's certificate of authority without prior approval of the Commission.

LOCAL COMPETITION

19.00 REQUIREMENTS FOR NEW ENTRANTS

19.01 All new local service providers must apply for and receive a certificate from the Commission prior to providing any local exchange services.

19.02 To create an environment in which fair and effective local competition flourishes, regulatory requirements for new entrants will initially be kept to a minimum in order to prevent unnecessary barriers to effective competition. Nevertheless, the Commission believes that certain requirements

are necessary to safeguard the public interests.

19.03 New entrants must demonstrate that they possess the technical, managerial, and financial resources to provide local exchange service before the Commission considers the issuance of a certificate.

19.04 New entrants must provide access to and interconnection with their facilities at just and reasonable rates.

19.05 New entrants must comply with all applicable Commission service quality standards and shall submit any service quality reports and allow any access to facilities required by the Commission.

19.06 New entrants must provide access to: emergency services, the Relay Center for the Hearing Impaired, and operator/directory assistance services.

19.07 New entrants must, during normal business hours (at a minimum), provide sufficient and knowledgeable personnel to respond to customer service and billing inquiries.

19.08 New entrants must, at a reasonable cost, provide customers with a local exchange telephone directory.

19.09 New entrants must provide all cost and financial data required by the Commission and pay supervision and inspection fees to the Commission. Additionally, new entrants must participate in the funding of outside reviews of this plan under the terms and conditions covered in section **25.06**.

19.10 New local service providers shall file tariffs for local exchange and exchange access services. These tariffs will be only as information to the Commission and will not require Commission approval.

19.11 Additionally, on or before April 1 of each year, new entrants shall file with the APSC a copy of their Annual Report to Shareholders and the Form 10-K filed with the Securities Exchange Commission. Companies not preparing these reports shall file financial statements containing comparable information.

19.12 Further, the Commission reserves the right to modify and expand the regulatory requirements for new entrants.

20.00 INTERCONNECTION AND NETWORKING REQUIREMENTS

20.01 All local service providers shall make their networks available for interconnection and that

all networks will be "open" and interoperable with all other local networks. All local service providers will participate in the development of, and adhere to, uniform technical standards for local interconnection. It is recognized that CATV network design is substantially different from traditional telephone network design and, therefore, technical "openness" may be somewhat limited.

20.02 All LECs will provide read-only access to their databases, as required for network interoperability and quality local telephone service. Further, all incumbent providers and new entrants will participate in developing interworking arrangements and uniform compatibility standards for database access.

20.03 All LECs which provide N11 services will provide access to and interworking with N11 services.

20.04 All LECs will allow new entrants' white page listings in their directories, at prices to be developed in a Commission workshop on interconnection.

20.05 All local service providers will provide access to their conduits, rights-of-way, poles, and easements, on a first-come/first-serve basis, provided any spare or unused capacity exists after evaluating the providing party's reasonable needs, subject to local, state, and federal requirements.

20.06 Non-discriminatory interconnection charges will be developed which are just, reasonable, and support the Commission's objective to create an environment in which fair and effective local competition flourishes. The Commission will conduct a workshop for the purpose of developing interconnection charges.

20.07 The Commission recognizes that technical and financial limitations may limit the ability of some non-SCB LECs to fully comply, within the same timetable as SCB, with the networking, interconnection, and facilities access requirements referenced in sections **20.01** through **20.03** and section **20.04**. Within one (1) year of the date of this Order, all non-SCB LECs shall be required to submit a plan to substantially meet these requirements by the end of the limited protection period referenced in sections **16.01** through **16.03**.

20.08 The Alabama Local Competition Committee, referenced in section **25.05**, will convene a task force to further develop uniform technical standards for local interconnection and procedures for access to unused facilities and use of easements/rights-of-way, referenced in section **20.05**.

21.00 RESALE OF SERVICES/FACILITIES AND RELATED ISSUES

21.01 The LECs will, at a minimum, unbundle their local networks into the following four basic

network functions: 1) local loop; 2) local switching; 3) local interoffice facilities; and, 4) signaling. Unbundling of basic network functions shall be addressed in the Commission workshop on interconnection.

21.02 All services shall be available for resale, at prices and with use and user restrictions in place, with the exception of flat rate residential, flat rate single line business, and flat rate business trunks. The Commission, as referenced in section **26.02 C**, will determine whether these and other services should be available for unrestricted resale and whether and to what extent resold services should be offered at a discounted price. All non-SCB LECs shall meet the requirements of this section and section **21.01** by the expiration of the limited protection period referenced in sections **16.01** through **16.03**.

21.03 Due to the interLATA restrictions imposed upon it by the MFJ, SCB requests that "joint marketing" restrictions, for any combination local/toll service offering, be imposed on new entrants until SCB can make similar offers to customers. This issue will be addressed in a separate Commission docket as referenced in section **26.02 A**.

22.00 TELEPHONE NUMBER PORTABILITY

Telephone number portability is an issue which will be addressed at the national level. All local service providers are encouraged to participate in national forums, meetings, etc., to ensure that Alabama-specific concerns are addressed. Further, LECs will implement reasonable short-term and long-term solutions as required at the national level and/or by the Commission. The Commission will conduct a workshop on telephone number portability.

23.00 UNIVERSAL SERVICE AND RELATED ISSUES

Universal service, and the many cost, subsidy, and funding issues associated with it, will be addressed in a Commission workshop. The LECs shall serve as carriers of last resort and existing support mechanisms for non-SCB LECs will continue, during the interim, until these issues are resolved.

24.00 NEW TECHNOLOGIES AND EXPANDED SERVICES

The availability of emerging technology, multimedia services, expanded services, and the benefits of the "information super highway", are of primary concern to Alabama consumers and to the Commission. All local service providers will develop networks and capabilities to support this effort, in both urban and rural areas. The Commission will conduct a workshop on new technologies and expanded services.

25.00 OTHER ISSUES

25.01 The Commission will establish a separate docket for 1+ and 0+ intraLATA toll

presubscription issues.

25.02 All LECs will provide equal access for interLATA toll, subject to existing request procedures. Equal access, to include any requirements that new entrants provide equal access, will be addressed in the Commission workshop on interconnection.

25.03 Upon approval of this plan, AT&T agrees to dismiss its complaint against SCB, filed with the Commission on April 25, 1995.

25.04 Without standardized cost study procedures, it will be extremely difficult to resolve challenges involving non-competitive pricing. Therefore, a workshop will be held for the purposes of establishing uniform cost definitions and cost study procedures that will be applicable to all incumbent LECs and new entrants.

25.05 The Commission will establish an "Alabama Local Competition Committee". The committee should be chaired by a representative of the Commission and include at least one additional Commission representative, one representative from the AG's office, two representatives of the non-SCB/GTE LECs, and one representative each from SCB, GTE, AT&T, MCI, Sprint, DELTACOM, the Resellers, the cable TV industry, and the Communication Workers of America (CWA). Additionally, one or more vacancies should be reserved for new entrants which are otherwise not represented. The Committee should meet at least once per quarter and shall conduct its initial meeting within 180 days from the date of this Order. The committee will:

1. Review local competition efforts in Alabama and in other jurisdictions.
2. Identify and review cross subsidization issues and alternative cost study procedures.
3. Identify and recommend solutions for barriers to local competition.
4. Convene a task force, as referenced in section **20.08**, to further develop uniform technical standards for local interconnection and procedures for access to unused facilities and use of easements/rights-of-way.
5. Address all other relevant local competition issues upon request by any member or from outside parties.
6. Provide quarterly/annual reports to the Commission to include recommended modifications to the price regulation/local competition plan and any recommended requirements for legislation.

25.06 An outside review of price regulation/local competition procedures and the impact on Alabama ratepayers will be conducted by no later than the third anniversary date of Commission approval and, thereafter, by joint agreement between the Commission and the AG. A list of consultants, proposed scope of the review, and proposed price ceiling for the review, shall be developed by the Alabama Local Competition Committee and submitted to the Commission and AG for their consideration. The selection of the consultant shall be made jointly by the Commission and the AG. The review will be paid for by incumbent LECs, interexchange carriers, resellers, and new local service providers on a pro-rata basis, using the most recent calendar year's total regulated

intrastate telecommunications revenue.

25.07 The Commission will conduct a workshop to develop plans for educating the consuming public on the issues and impact of price regulation and local competition.

25.08 The Commission retains authority in these matters, to include the extension, modification or repeal of all or a portion of this Order, and reserves the right to take such steps as necessary to ensure that satisfactory progress is made with regard to all issues.

26.00 REQUIREMENT FOR SEPARATE COMMISSION DOCKETS

26.01 In various sections of this plan, references have been made to additional Commission proceedings which will be necessary after the Commission Order. The Commission will establish a separate docket to deal with all unresolved price regulation and local competition issues. This docket should be structured such that issues may be resolved independently of each other and within differing time-frames.

26.02 Following the Commission Order for this plan, separate dockets will be established as follows:

1. Local/toll joint marketing restrictions (**21.03**).
2. 1+ and 0+ intraLATA toll presubscription (**25.01**).
3. Unrestricted resale of local service (**21.02**) and other unresolved price regulation and local competition issues (**26.01**)

27.00 UNRESOLVED ISSUES

Unresolved price regulation and local competition issues other than those to be addressed by separate Commission docket as referenced in section **26.02** are:

1. Area Calling Service and Lifeline Service for non-SCB LECs (**02.05**).
2. Schedule of basic service rate increases and decreases for non-SCB LECs (**03.04**).
3. The development of service quality standards (PRI Report) for non-SCB LECs (**05.03**).
4. Development of procedures/plans for Total Factor Productivity studies (**06.03**).
5. Procedures for electronic PRI/SPI filings (**06.13**).
6. Transition Fund procedures (**09.07**).
7. Plan for “flowing through” non-SCB LEC access reductions to carrier/reseller intrastate toll rates (**10.02**).
8. Universal Service cost, subsidy, funding, and other issues (**11.02, 12.04, 23.00**).
9. Procedures for adjusting the PRI due to Extraordinary Governmental Actions (**12.02**)
10. Monthly financial and service quality reporting requirements for non-SCB LECs (**14.03, 15.02**).

11. Local interconnection (20.04, 20.06, 21.01, 25.02).
12. Telephone Number Portability (22.00).
13. New Technologies and Expanded Services (24.00).
14. Standardized cost study procedures (25.04).
15. Customer education plans (25.07).

28.00 COMMISSION WORKSHOPS

28.01 The Commission will conduct all workshops to resolve the issues referenced in section 27.00 and will provide notice to parties relative to the time and location(s) for the workshops.

28.02 Workshops are organized as follows:

<u>Workshop No.</u>	<u>Section 27.00 Issues Addressed</u>	<u>Issues to be Resolved No Later Than ¹ (Days from Order)</u>
1	A, B, E, F, G	60
2	C, J	60
3	O	60
4	D, N, I	180
5	H, M	180
6	K, L	180

¹ Calendar days from the effective date of this Order (may be extended by the Commission).

28.03 The staff will provide the Commission with periodic status reports on the progress in the workshops. The separate docket for these unresolved issues will remain open until all such issues are settled. Nevertheless, the Commission reserves the right to modify, approve, and implement agreements on individual issues addressed in the workshops or addressed in hearings under this docket. The Commission further reserves the right to conduct proceedings, and to implement policies, plans and procedures on any of the individual issues to be addressed in the workshops. The Commission may take this action at its discretion, or because these issues cannot be resolved by the parties in the workshop prior to the end of the period prescribed in section 28.02 (or earlier if an apparent “impasse” is reached).

28.04 This plan will be amended to reflect the changes and additions approved by the Commission under the terms and conditions of sections 26.02 and 28.03.

The Commission is of the opinion and finds that the public interest would be served by the implementation of telecommunication price regulation and local competition as discussed in the preceding report.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Price Regulation and Local

Competition Plan which incorporates and amends SCB's Price Regulation Proposal, the Stipulation of Parties, the AG's Motion to Accept and Implement Stipulation, and the Staff Report on Price Regulation and Local Competition, as discussed and detailed herein, is hereby adopted by the Commission;

IT IS FURTHER ORDERED, That the South Central Bell price regulation plan shall be effective as of the date of this order; and

IT IS FURTHER ORDERED, That the non-SCB LECs shall provide notice to the Commission of their election to change their form of regulation within ninety calendar days from the date of this Order and within thirty calendar days of the anniversary date of this Order each year thereafter, and

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

Done at Montgomery, Alabama, this day of September, 1995.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

Charles B. Martin, Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

Attachment 1
Page 1 of 3

SCB SERVICE QUALITY CALCULATIONS

1. Overall Trouble Report Rates

The number of troubles (excluding memory services) for each wire center will be reported monthly. The Total Access Served (line 03 450 of the Access and Services Report - 2) for the beginning of the month and for the end of the month will be summed and divided by 2 to obtain average monthly access lines. The trouble report rate for the most recent 12 months is calculated as follows:

- a. Sum the monthly **total** troubles for the 12 month period.
- b. Sum the monthly average access lines for the 12 month period.
- c. Divide line a by line b and multiply by 100. Round to nearest two decimal places using conventional rounding.
- d. Enter result on Service Quality - Penalty Worksheet, Line 1.

2. Trouble Report Rates for Individual Wire Centers

The trouble report rate (excluding memory services) and access lines (as per network reports) for each wire center will be reported monthly. The trouble report rate for the most recent 12 months is calculated as follows:

- a. Sum the monthly troubles in each wire center for the 12 month period.
- b. Sum the monthly access lines in each wire center for the 12 month period.
- c. Divide line a by line b and multiply by 100. Round to nearest two decimal places using conventional rounding.
- d. Count the number of wire centers with trouble report rates exceeding 5 %. Enter result on Service Quality - Penalty Worksheet, Line 2.

Attachment 1
Page 2 of 3

3. Held Applications

The Backlog Cross Reference Report for Non-Excluded Past Due Orders and the Access and Services - Report 2 will be provided monthly. Monthly average access lines determined as per part

1 (above). The held application rate for the most recent 12 months is calculated as follows:

- a. Sum each month's total held applications as shown on the Backlog Cross Reference Report for the 12 month period.
- b. Sum the average access lines for each month for the 12 month period.
- c. Divide line a by line b and multiply by 100. Round to nearest three decimal places using conventional rounding.
- d. Enter result on Service Quality - Penalty Worksheet, Line 3.

4. Receipt to Final Status

The Network Receipt to Final Status results will be submitted monthly as follows:

	A	B	C	D	E	F
	<u>< 24 hrs</u>	<u><36 hrs</u>	<u><48 hrs</u>	<u><72 hrs</u>	<u>>72 hrs</u>	<u>Total</u>
# Troubles						D + E

Results for the most recent 12 months will be composited and the percent of troubles with final status received in less than 36 hours calculated as follows.

<u>Month</u>	A	B	C	D	E	F
	<u>< 24 hrs</u>	<u><36 hrs</u>	<u><48 hrs</u>	<u><72 hrs</u>	<u>>72 hrs</u>	<u>Total</u>
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
Total		Sum B				Sum F
Percent						

Percent of Troubles with Receipt to Final Status in < 36 hrs = (Sum B/ Sum F) X 100.
 Rounding to 2 decimal places, conventional rounding applies. Enter result on Service Quality - Penalty Worksheet, Line 4.

Service Quality - Penalty Worksheet

Penalty

1. Overall Trouble Report Rate _____%

Greater than 2.42 % ?
Yes (enter .2) _____%

2. Number of wire centers with trouble
report rate exceeding 5.00 % _____
Greater than 1 ?
Yes (enter .2) _____%

3. Held Application Rate _____%
Greater than .015 % ?
Yes (enter .2) _____%

4. Receipt to Final Status _____%
Less than 72.00 % ?
Yes (enter .2) _____%

5. Total Service Quality Penalty
(sum of lines 1 through 4) _____%
Enter here and on PRI Report,
Line 4b.

ATTACHMENT 2
PAGE 1 OF 3

PRI REPORT¹

Company

Date

Change in GDP-PI

1. Gross Domestic Product Price Index (GDP-PI) for the latest available quarter².
2. GDP-PI for the same quarter of the previous year.
3. Change in GDP-PI [(line1 - line 2) divided by line 2]

Adjustments for Efficiency/ Service Quality Performance

4. a. Efficiency Factor (.03 for SCB, .01 for all non-SCB LECs)
b. Service quality penalties³
c. Resulting efficiency factor (line 4a. + line 4b.)
5. Adjusted change in GDP-PI (line 3 - line 4c.)

Price Regulation Index Calculations

6. Present PRI⁴ (from PRI Report of previous year, line 7)
7. New PRI [(1.0 + line 5) X line 6]

¹ All figures rounded to three decimal places.

² Source: U.S. Department of Commerce, Bureau of Economic Analysis.

³ Apply in the event that service quality standards are missed.

⁴ Initial PRI set at 100.

SERVICE PRICE INDEX (SPI) REPORT I

Company

Date

Adjusted Change in GDP-PI (PRI Report, line 5).¹

<u>Service Description</u>	<u>Annual Demand</u> A	<u>Present Price</u> B	<u>Proposed Price</u> C	<u>Annual Price</u> D	<u>Annual Revenue</u> D=A X B	<u>Basic Residential Revenue</u> E= A X C	<u>Services Only</u> [(E-D) divided by D]
----------------------------	---------------------------	---------------------------	----------------------------	--------------------------	----------------------------------	--	--

TOTAL REVENUE

Change in Prices [(Item G - Item F) divided by Item F] X 100²

H

¹ Annual price increases for residential basic services are limited to the Adjusted Change in the GDP-PI (rounded to three decimal places).

² Used for monitoring non-basic services only . The annual increase in prices for the aggregate non-basic services category is limited to 10 percent (rounded to one decimal place)

SERVICE PRICE INDEX (SPI) REPORT II¹

Company

Date

1. New PRI ² (from line 7 of PRI Report)
2. Present SPI ³
3. Present SPI less than New PRI ⁴ (line 2 < line 1)?
YES: Price Increases Authorized.
NO: Price Increases are not Authorized
4. Change in SPI (SPI Report I, Item G divided by Item F)
5. New SPI = Present SPI X Change in SPI (line 2 X line 4)
6. New SPI less than or equal to the New PRI ³ (line 5 < or = line 1)?
YES: Price Increases Authorized.
NO: Price Increases are not Authorized

¹ All figures rounded to three decimal places.

² The PRI is calculated once per annum and will not change until the subsequent annual filing date for the LEC.

³ The initial SPI is set at 100 and subsequently is taken from line 5 of the most recent SPI Report II filed with the Commission. The SPI will change each time there is a price change.

⁴ The SPI must always be less than or equal to the new PRI in order for price increases to occur.

**APPLICATION
CERTIFICATE OF CONVENIENCE & NECESSITY**

If the Applicant wants to provide any type of Non-Customer Owned Pay Telephone (“COPT”) telecommunications services in Arizona, provide the Arizona Corporation Commission (“Commission”) with information being requested.

Remember that information submitted for a Certificate of Convenience and Necessity (“CC&N”) will be made part of the public record (including financial statements). Any information designated as confidential will not be accepted by Docket Control. Mail your original CC&N application plus thirteen (13) copies to Arizona Corporation Commission, Docket Control, 1200 W. Washington Street, Phoenix, AZ 85007-2927.

Make sure you use the Application form dated May 24, 2010. Also, make sure you answer each numbered item and part of the item in each section of the Application form. If you do not use the correct Application form and/or do not completely answer the numbered item(s), Staff will request the Applicant to re-submit the Application form and/or complete any of the numbered item(s) and part of the item in a data request. In order for Staff to review your Application, complete the following form. Thank you.

ARIZONA CORPORATION COMMISSION

**Application and Petition for Certificate of Convenience and Necessity to Provide
Intrastate Telecommunications Services**

Mail original plus 13 copies of completed application to:

For Docket Control Only:
(Please Stamp Here)

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

Please indicate if you have current applications pending
in Arizona as an Interexchange reseller, AOS provider,
or as the provider of other telecommunication services.

Type of Service: _____

Docket No.: _____ Date: _____ Date Docketed: _____

Type of Service: _____

Docket No.: _____ Date: _____ Date Docketed: _____

A. COMPANY AND TELECOMMUNICATION SERVICE INFORMATION

(A-1) Please indicate the type of telecommunications services that you want to provide in Arizona and mark the appropriate box(s).

- Resold Long Distance Telecommunications Services (Answer Sections A, B).
- Resold Local Exchange Telecommunications Services (Answer Sections A, B, C).
- Facilities-Based Long Distance Telecommunications Services (Answer Sections A, B, D).
- Facilities-Based Local Exchange Telecommunications Services (Answer Sections A, B, C, D, E)
- Alternative Operator Services Telecommunications Services (Answer Sections A, B)
- Other _____ (Please attach complete description)

(A-2) The name, address, telephone number (including area code), facsimile number (including area code), e-mail address, and World Wide Web address (if one is available for consumer access) of the Applicant:

(A-3) The d/b/a ("Doing Business As") name if the Applicant is doing business under a name different from that listed in Item (A-2):

(A-4) The name, address, telephone number (including area code), facsimile number (including area code), and E-mail address of the Applicant's Management Contact:

(A-5) The name, address, telephone number (including area code), facsimile number (including area code), and E-mail address of the Applicant's Attorney and/or Consultant:

(A-6) The name, address, telephone number (including area code), facsimile number (including area code), and E-mail address of the Applicant's Complaint Contact Person:

(A-7) What type of legal entity is the Applicant? Mark the appropriate box(s) and category.

- Sole proprietorship
- Partnership: ___ Limited, ___ General, ___ Arizona, ___ Foreign
- Limited Liability Company: ___ Arizona, ___ Foreign
- Corporation: ___ "S", ___ "C", ___ Non-profit
- Other, specify: _____

(A-8) Please include "Attachment A":

Attachment "A" must include the following information:

1. A copy of the Applicant's Certificate of Good Standing as a domestic or foreign corporation, LLC, or other entity in Arizona.
2. A list of the names of all owners, partners, limited liability company managers (or if a member managed LLC, all members), or corporation officers and directors (specify).
3. Indicate percentages of ownership of each person listed in A-8.2.

(A-9) Include your Tariff as "Attachment B".

Your Tariff must include the following information:

1. Proposed Rates and Charges for each service offered (reference by Tariff page number).
2. Tariff Maximum Rate and Prices to be charged (reference by Tariff page number).
3. Terms and Conditions Applicable to provision of Service (reference by Tariff page number).
4. Deposits, Advances, and/or Prepayments Applicable to provision of Service (reference by Tariff page number).
5. The proposed fee that will be charged for returned checks (reference by Tariff page number).

(A-10) Indicate the geographic market to be served:

- Statewide. (Applicant adopts statewide map of Arizona provided with this application).
- Other. Describe and provide a detailed map depicting the area.

(A-11) Indicate if the Applicant or any of its officers, directors, partners, or managers has been or are currently involved in any formal or informal complaint proceedings before any state or federal regulatory commission, administrative agency, or law enforcement agency.

Describe in detail any such involvement. Please make sure you provide the following information:

1. States in which the Applicant has been or is involved in proceedings.
2. Detailed explanations of the Substance of the Complaints.
3. Commission Orders that resolved any and all Complaints.
4. Actions taken by the Applicant to remedy and/or prevent the Complaints from re-occurring.

(A-12) Indicate if the Applicant or any of its officers, directors, partners, or managers has been or are currently involved in any civil or criminal investigation, or had judgments entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.

Describe in detail any such judgments or convictions. Please make sure you provide the following information:

1. States involved in the judgments and/or convictions.
2. Reasons for the investigation and/or judgment.
3. Copy of the Court order, if applicable.

(A-13) Indicate if the Applicant's customers will be able to access alternative toll service providers or resellers via 1+101XXXX access.

- Yes No

(A-14) Is Applicant willing to post a Performance Bond? Please check appropriate box(s).

For Long Distance Resellers, a \$10,000 bond will be recommended for those resellers who collect advances, prepayments or deposits.

Yes

No

If "No", continue to question (A-15).

For Local Exchange Resellers, a \$25,000 bond will be recommended.

Yes

No

If "No", continue to question (A-15).

For Facilities-Based Providers of Long Distance, a \$100,000 bond will be recommended.

Yes

No

If "No", continue to question (A-15).

For Facilities-Based Providers of Local Exchange, a \$100,000 bond will be recommended.

Yes

No

If any box in (A-14) is marked "No", continue to question (A-15).

Note: Amounts are cumulative if the Applicant is applying for more than one type of service.

(A-15) If any box in (A-14) is marked "No", provide the following information. Clarify and explain the Applicant's deposit policy (reference by tariff page number). Provide a detailed explanation of why the Applicant's superior financial position limits any risk to Arizona consumers.

(A-16) Submit copies of affidavits of publication that the Applicant has, as required, published legal notice of the Application in all counties where the Applicant is requesting authority to provide service.

Note: For Resellers, the Applicant must complete and submit an Affidavit of Publication Form as Attachment "C" before Staff prepares and issues its report. Refer to the Commission's website for Legal Notice Material (Newspaper Information, Sample Legal Notice and Affidavit of Publication). For Facilities-Based Service Providers, the Hearing Division will advise the Applicant of the date of the hearing and the publication of legal notice. Do not publish legal notice or file affidavits of publication until you are advised to do so by the Hearing Division.

(A-17) Indicate if the Applicant is a switchless reseller of the type of telecommunications services that the Applicant will or intends to resell in Arizona:

Yes

No

If "Yes", provide the name of the company or companies whose telecommunications services the Applicant resells.

(A-18) List the States in which the Applicant has had an application approved or denied to offer telecommunications services similar to those that the Applicant will or intends to offer in Arizona:

Note: If the Applicant is currently approved to provide telecommunications services that the Applicant intends to provide in Arizona in less than six states, excluding Arizona, list the Public Utility Commission ("PUC") of each state that granted the authorization. For each PUC listed provide the name of the contact person, their phone number, mailing address including zip code, and e-mail address.

(A-19) List the States in which the Applicant currently offers telecommunications services similar to those that the Applicant will or intends to offer in Arizona.

Note: If the Applicant currently provides telecommunication services that the Applicant intends to provide in Arizona in six or more states, excluding Arizona, list the states. If the Applicant does not currently provide telecommunications services that the Applicant intends to provide in Arizona in five or less states, list the key personnel employed by the Applicant. Indicate each employee's name, title, position, description of their work experience, and years of service in the telecommunications services industry.

(A-20) List the names and addresses of any alternative providers of the service that are also affiliates of the telecommunications company, as defined in R14-2-801.

(A-21) Check here if you wish to adopt as your petition a statement that the service has already been classified as competitive by Commission Decision:

- Decision # 64178 Resold Long Distance
- Decision # 64178 Resold LEC
- Decision # 64178 Facilities Based Long Distance
- Decision # 64178 Facilities Based LEC

B. FINANCIAL INFORMATION

(B-1) Indicate if the Applicant has financial statements for the two (2) most recent years.

Yes No

If "No," explain why and give the date on which the Applicant began operations.

(B-2) Include "Attachment D".

Provide the Applicant's financial information for the two (2) most recent years.

1. A copy of the Applicant's balance sheet.
2. A copy of the Applicant's income statement.
3. A copy of the Applicant's audit report.
4. A copy of the Applicant's retained earnings balance.
5. A copy of all related notes to the financial statements and information.

Note: Make sure "most recent years" includes current calendar year or current year reporting period.

(B-3) Indicate if the Applicant will rely on the financial resources of its Parent Company, if applicable.

(B-4) The Applicant must provide the following information.

1. Provide the projected total revenue expected to be generated by the provision of telecommunications services to Arizona customers for the first twelve months following certification, adjusted to reflect the maximum rates for which the Applicant requested approval. Adjusted revenues may be calculated as the number of units sold times the maximum charge per unit.
2. Provide the operating expenses expected to be incurred during the first twelve months of providing telecommunications services to Arizona customers following certification.
3. Provide the net book value (original cost less accumulated depreciation) of all Arizona jurisdictional assets expected to be used in the provision of telecommunications service to Arizona customers at the end of the first twelve months of operation. Assets are not limited to plant and equipment. Items such as office equipment and office supplies should be included in this list.
4. If the projected value of all assets is zero, please specifically state this in your response.
5. If the projected fair value of the assets is different than the projected net book value, also provide the corresponding projected fair value amounts.

C. RESOLD AND/OR FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

(C-1) Indicate if the Applicant has a resale agreement in operation,

Yes

No

If "Yes", please reference the resale agreement by Commission Docket Number or Commission Decision Number.

D. FACILITIES-BASED LONG DISTANCE AND/OR FACILITIES BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

(D-1) Indicate if the Applicant is currently selling facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services in Arizona. This item applies to an Applicant requesting a geographic expansion of their CC&N:

Yes

No

If "Yes," provide the following information:

1. The date or approximate date that the Applicant began selling facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services in Arizona.
2. Identify the types of facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services that the Applicant sells in Arizona.

If "No," indicate the date when the Applicant will begin to sell facilities-based long distance telecommunications AND/OR facilities-based local exchange telecommunications services in Arizona.

E. FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

(E-1) Indicate whether the Applicant will abide by the quality of service standards that were approved by the Commission in Commission Decision Number 59421:

Yes

No

(E-2) Indicate whether the Applicant will provide all customers with 911 and E911 service, where available, and will coordinate with incumbent local exchange carriers ("ILECs") and emergency service providers to provide this service:

Yes

No

(E-3) Indicate that the Applicant's switch is "fully equal access capable" (i.e., would provide equal access to facilities-based long distance companies) pursuant to A.A.C. R14-2-1111 (A):

Yes

No

I certify that if the applicant is an Arizona corporation, a current copy of the Articles of Incorporation is on file with the Arizona Corporation Commission and the applicant holds a

Certificate of Good Standing from the Commission. If the company is a foreign corporation or partnership, I certify that the company has authority to transact business in Arizona. I certify that all appropriate city, county, and/or State agency approvals have been obtained. Upon signing of this application, I attest that I have read the Commission's rules and regulations relating to the regulations of telecommunications services (A.A.C. Title 14, Chapter 2, Article 11) and that the company will abide by Arizona state law including the Arizona Corporation Commission Rules. I agree that the Commission's rules apply in the event there is a conflict between those rules and the company's tariff, unless otherwise ordered by the Commission. I certify that to the best of my knowledge the information provided in this Application and Petition is true and correct.

(Signature of Authorized Representative)

(Date)

(Print Name of Authorized Representative)

(Title)

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____

NOTARY PUBLIC

My Commission Expires _____

Corporation Commission – Fixed Utilities

General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1013. IntraLATA Long-distance Service is Prohibited
AOS providers may not carry intraLATA toll calls where the required compensation has not been paid to the LEC. All intra-LATA calls where arrangements have not been made for compensation to the LEC by the IXC must be switched to the authorized LEC of the aggregator.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1014. Variations or Exemptions from the Commission's Rules

Variations or exemptions from the terms and requirements of any of the rules included in this Article shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission's rules. Such application will be subject to the review of the Commission and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1101. Application of Rules

These rules shall govern the provision of competitive, intrastate telecommunications services to the public by telecommunications companies subject to the jurisdiction of the Arizona Corporation Commission. Unless otherwise ordered by the Commission, these rules shall not govern the provision of service by independently or local exchange carrier-owned pay telephones (COPTs) and alternative operator service (AOS) providers, which shall instead be governed by Articles 9 and Article 10 of this Chapter, respectively. The provision of local exchange service also shall be governed by Article 5 of this Chapter, to the extent that Article is not inconsistent with these rules.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative

Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1102. Application of Rule

Article, unless the context otherwise requires, the following definitions shall apply:

1. "Arizona Corporation Commission" or "Commission." The regulatory agency of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
2. "Bona Fide Request." A written request submitted by a telecommunications company to a local exchange carrier for intraLATA equal access service or for interconnection arrangements.
3. "Central Office." A facility within a telecommunications system where calls are switched and which contains all the necessary equipment, operating arrangements, and interface points for terminating and interconnecting facilities such as subscribers' line and interoffice trunks.
4. "Competitive Telecommunications Service." Any telecommunications service where customers of the service within the relevant market have or are likely to have reasonably available alternatives.
5. "Docket Control Center." The Commission section responsible for the acceptance and processing of all applications and other filings, and for official record maintenance.
6. "Equal Access." An arrangement where a local exchange company provides all telecommunications companies operating in an equal access central office with dialing arrangements and other service characteristics that are equivalent in type and quality to what the local exchange carrier utilizes in the provision of its service.
7. "Local Exchange Carrier." A telecommunications company that provides local exchange service as one of the telecommunications services it offers to the public.
8. "Local Exchange Service." The telecommunications service that provides a local dial tone, access line, and local usage within an exchange or local calling area.
9. "Monopoly Service." A monopoly service is any telecommunications service provided by a telecommunications company that is not subject to competition in the relevant market.
10. "Primary Interexchange Company" or "PIC." The telecommunications company with whom a customer may presubscribe to provide 1+/0+ toll service, without the use of access codes, following equal access implementation.
11. "Rate." Within the context of this Article, this term refers to the maximum tariffed rate approved by the Commission, from which the competitive telecommunications service provided may be discounted down to the total service long-run incremental cost of providing the service.
12. "Relevant Market." Where buyers and sellers of a specific service or product, or a group of services or products, come together to engage in transactions. For telecommunications services, the relevant market may be identified on a service-by-service basis, a group basis, and/or by geographic location.
13. "Staff." The staff of the Arizona Corporation Commission or its designated representative or representatives.
14. "Tariffs." The documents filed with the Commission which list the services and products offered by a telecommunications company and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.

15. "Telecommunications Company." A public service corporation, as defined in the Arizona Constitution, Article 15, § 2, that provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction.
 16. "Telecommunications Service." Any transmission of interactive switched and non-switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwave, or any other electromagnetic means (including access services), which originate and terminate in this state and are offered to or for the public, or some portion thereof, for compensation.
 17. "Total Service Long Run Incremental Cost." The total additional cost incurred by a telecommunications company to produce the entire quantity of a service, given that the telecommunications company already provides all of its other services. Total Service Long-run Incremental Cost is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.
 18. "2-PIC Toll Equal Access." The equal access option that affords customers the opportunity to select one telecommunications company for all interLATA 1+/0+ toll calls and, at the customer's option, to select another telecommunications company for all intraLATA 1+/0+ toll calls.
 19. "Unbundled." Disaggregation of the local exchange carrier network services.
1. A description of the telecommunications company and of the telecommunications services it offers or intends to offer.
 2. The proper name and correct intrastate address of the telecommunications company and:
 - a. The full name of its owner if a sole proprietorship,
 - b. The full name of each partner if a partnership,
 - c. A full list of the officers and directors if a corporation, or
 - d. A full list of the members if a limited liability company.
 3. A tariff for each service to be provided that states the maximum rate as well as the initial price to be charged, and that also states other terms and conditions that will apply to provision of the service by the telecommunications company. The telecommunications company shall provide economic justification or cost support data if required by the Commission or by Staff.
 4. A detailed description of the geographic market to be served and maps depicting the area.
 5. Appropriate city, county and/or state agency approvals, where appropriate.
 6. Such other information as the Commission or the Staff may request.
- B. As part of the Application for an expanded Certificate of Convenience and Necessity, the telecommunications company shall also petition the Commission for a determination that the intraLATA service being provided or to be provided is competitive, pursuant to the requirements of R14-2-1108.
 - C. The Commission shall review the initial tariffs submitted by the telecommunications company and shall determine whether the rates, terms, and conditions for the proposed services are reasonable.
 - D. If it appears, based upon Staff review or upon comments filed with Commission Docket Control Center, that a rate, term, or condition of service stated in a tariff may be unjust or unreasonable, or that a service to be offered by the applicant may not be competitive, the Commission or Staff may require further information and/or changes to the application or to the tariff.
 - E. When the Application is submitted to the Docket Control Center, it will not be filed until it is found to be in proper form. The telecommunications company shall, no later than 20 days after the Application is filed publish legal notice of the Application in all counties where services will be provided. The notice shall describe with particularity the contents of the Application on file with the Commission. Interested persons shall have 20 days from the publication of legal notice to file objections to the Application and to submit a motion to intervene in the proceeding.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

R14-2-1103. Certificates of Convenience and Necessity Required

All telecommunications companies providing intrastate telecommunications services shall obtain a Certificate of Convenience and Necessity from the Commission, either under this Article, if competitive services are to be provided or, under Article 5. If the Commission determines that the services identified in an Application filed under this Article are not competitive, the Commission may nevertheless grant a Certificate of Convenience and authorize provision of the services on a noncompetitive basis pursuant to Article 5.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1104. Expanded Certificates of Convenience and Necessity for Telecommunications Companies with Existing Certificates; Initial Tariffs

- A. Effective July 1, 1995, every telecommunications company, except a local exchange carrier, that has received a Certificate of Convenience and Necessity under Article 5, and that provides or intends to provide competitive, intraLATA telecommunications service shall file with the Docket Control Center 10 copies of an Application to expand its existing Certificate of Convenience and Necessity to provide competitive, intraLATA telecommunications service. In support of the request for an expanded Certificate of Convenience and Necessity, the Application shall, at a minimum, include the following information:

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1105. Certificates of Convenience and Necessity for Telecommunications Companies Offering Competitive Services; Initial Tariff

- A. Effective July 1, 1995, every other telecommunications company, except a local exchange carrier, that has not previously received a Certificate of Convenience and Necessity, and that provides or intends to provide intrastate competitive telecommunications services shall file with the Docket Control Center 10 copies of an Application for a Certificate of Convenience

Corporation Commission – Fixed Utilities

and Necessity to provide competitive telecommunications services. In support of the request for a Certificate of Convenience and Necessity, the Application shall, at a minimum, include all the information required in R14-2-1104(A) and shall also include the following information:

1. A description of the telecommunications company's technical capability to provide the proposed services and a description of its facilities.
 2. Information describing the financial resources of the telecommunications company, including:
 - a. A current intrastate balance sheet,
 - b. A current income statement (if applicable),
 - c. A pro forma income statement, and
 - d. Comparable financial information evidencing sufficient financial resources.
 3. A copy of the Partnership Agreement, Articles of Incorporation, Articles of Organization, Joint Venture Agreement, or any other contract, agreement, or document that evidences the formation of the telecommunications company.
- B.** An Application filed under subsection (A) of this Section shall also petition the Commission for a determination that the service being provided or to be provided is competitive under the requirements of R14-2-1108.
- C.** An Application filed under subsection (A) of this Section shall be subject to the provisions of subsections R14-2-1104(D) and (E).
- D.** In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1106. Grant of Certificate of Convenience and Necessity

- A.** The Commission, after notice and hearing, may deny certification to any telecommunications company which:
1. Does not provide the information required by this Article;
 2. Is not offering competitive services, as defined in this Article;
 3. Does not possess adequate financial resources to provide the proposed services;
 4. Does not possess adequate technical competency to provide the proposed services; or
 5. Fails to provide a performance bond, if required.
- B.** Every telecommunications company obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:
1. The telecommunications company shall comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service.
 2. The telecommunications company shall maintain its accounts and records as required by the Commission.
 3. The telecommunications company shall file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate.

4. The telecommunications company shall maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require.
5. The telecommunications company shall cooperate with Commission investigations of customer complaints.
6. The telecommunications company shall participate in and contribute to a universal service fund, as required by the Commission.
7. Failure by a telecommunications company to comply with any of the above conditions may result in rescission of its Certificate of Convenience and Necessity.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1107. Application to Discontinue or Abandon Local Exchange or Interexchange Services

- A.** Any telecommunications company providing competitive local exchange or interexchange service on a resold or facilities-based basis that intends to discontinue service or to abandon all or a portion of its service area shall file an application for authorization with the Commission setting forth the following:
1. Any reasons for the proposed discontinuance of service or abandonment of service area;
 2. Verification that all affected customers have been notified of the proposed discontinuance or abandonment, and that all affected customers will have access to an alternative local exchange service provider or interexchange service provider;
 3. Where applicable, a plan for the refund of deposits collected pursuant to subsection R14-2-503(B);
 4. A list of all alternative utilities providing the same or similar service within the affected geographic area.
- B.** When the application is submitted to the Docket Control Center, it will not be filed until it is found to be in proper form. No later than 20 days after the application is filed, the telecommunications company shall publish legal notice of the application in all counties affected by the application. The legal notice shall describe with particularity the substance of the application. Interested persons shall have 30 days from the publication of legal notice to file objections to the application, to request a hearing, and to submit a motion to intervene in the proceeding.
- C.** Once proper notice is effected and if no objection is filed, the Commission may grant the application without a hearing.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 10 A.A.R. 1030, effective April 26, 2004 (Supp. 04-1).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel.

Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992).

R14-2-1108. Determination of a Competitive Telecommunications Service

- A.** A telecommunications company may petition the Commission to classify as competitive any service or group of services provided by the company. The telecommunications company shall file with the Docket Control Center 10 copies of its petition. The telecommunications company also shall provide notice of its application to each of its customers, if any, and to each regulated telecommunications company that serves the same geographic area or provides the same service or group of services, or a service or group of services similar to the service or group of services for which the competitive classification is requested.
- B.** The petition for competitive classification shall set forth the conditions within the relevant market that demonstrate that the telecommunications service is competitive, providing, at a minimum, the following information:
1. A description of the general economic conditions that exist which make the relevant market for the service one that is competitive;
 2. The number of alternative providers of the service;
 3. The estimated market share held by each alternative provider of the service;
 4. The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications company, as defined in R14-2-801;
 5. The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
 6. Other indicators of market power, which may include growth and shifts in market share, ease of entry and exit, and any affiliation between and among alternative providers of the services.
- C.** Alternatively, where the Commission has already classified a specific service within the relevant market as competitive, the petition shall provide the date and decision number of the Commission order.
- D.** In any competitive classification proceeding, the telecommunications company filing the petition, and any telecommunications company supporting the petition, shall have the burden of demonstrating that the service at issue is competitive. Classification of the petitioners' service as competitive does not constitute classification of any service provided by another telecommunications company as competitive, unless expressly ordered by the Commission.
- E.** The Commission may initiate classification proceedings on its own motion and may require all regulated telecommunications companies potentially affected by the classification proceeding to participate in the proceeding. In an Order classifying a service as competitive, the Commission will specify whether the classification applies to the service provided by a specific company or companies or to that service provided by all telecommunications companies.
- F.** If the Commission finds that a telecommunications company's service is competitive, the telecommunications company providing the service may obtain a rate change for the service by applying for streamlined rate treatment pursuant to R14-2-1110.
- G.** Any finding by the Commission, pursuant to the provisions of this Section, that a telecommunications service is competitive so as to qualify for streamlined rate treatment shall not constitute a finding that the service is deregulated.
- H.** Any telecommunications service classified by the Commission as competitive may subsequently be reclassified as noncom-

petitive if the Commission determines that reclassification would protect the public interest. Notice and hearing would be required prior to any reclassification. The burden of proof would be on the party seeking reclassification.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1109. Pricing of Competitive Telecommunications Services

- A.** Pricing of Competitive Services. A telecommunications company governed by this Article may price a competitive telecommunications service at any level at or below the maximum rate stated in the company's tariff on file with the Commission, provided that the price for the service is not less than the company's total service long-run incremental cost of providing the service.
- B.** Changing a Price. A telecommunications company governed by this Article may effect a price change for a competitive service so long as two conditions are met:
1. The changed price comports with the limitations stated in subsection (A); and
 2. The Commission is provided with concurrent, written notice of the price change.
- C.** No Cross-subsidization. A competitive telecommunications service shall not be subsidized by any rate or charge for any noncompetitive telecommunications services. To ensure that no cross-subsidization exists, each competitive telecommunications service must provide revenues that equal or exceed the company's total service long-run incremental cost of providing the service.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1110. Competitive Telecommunications Services -- Procedures for Rate Change

- A.** Telecommunications companies governed by this Article may apply to the Commission for an increase in any rate for a competitive service using the procedures set forth below. All applications and supporting information shall be submitted with 10 copies and filed with Docket Control Center.
- B.** In order to increase the maximum tariffed rate for a competitive telecommunications service, the applicant shall submit an application to the Commission containing the following information:
1. A statement setting forth the reasons for which a rate increase is required;
 2. A schedule of current rates and proposed rates and the additional revenues to be derived from the proposed rates;

Corporation Commission – Fixed Utilities

3. An affidavit verifying that appropriate notice of the proposed rate increase has been provided to customers of the service;
 4. The Commission or staff may request any additional information in support of the application.
- C. The Commission may, at its discretion, act on the requested rate increase with or without an evidentiary hearing; in an expeditious manner.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

R14-2-1111. Requirement for IntraLATA Equal Access

- A. Each local exchange carrier shall provide 2-PIC toll equal access where technically and economically feasible, and in accordance with any procedures the Commission may order.
- B. The sequence for implementation of intraLATA equal access shall occur in the following manner:
 1. In response to a bona fide request for intraLATA equal access, a local exchange carrier shall complete implementation of intraLATA equal access within nine months of receiving the request. A person making such a bona fide request shall also provide a copy to the Arizona Corporation Commission.
 2. The local exchange carrier may implement intraLATA equal access in any central office on its own initiative but, in any event, shall make intraLATA equal access available in all its central offices no later than July 1, 1996, unless otherwise ordered by the Commission
- C. A local exchange carrier may petition the Commission for a waiver of the requirement in subsection (B)(1) on the grounds that compliance is not technically or economically feasible. A local exchange carrier may also petition the Commission for an extension of the requirement in subsection (B)(2) on the grounds that intraLATA equal access cannot reasonably or economically be provided within any specific exchanges within the required time-frame. The Commission may grant either of these waivers with or without a hearing. The local exchange carrier filing the waiver petition shall bear the burden of proof.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1112. Interconnection Requirements

All local exchange carriers must provide appropriate interconnection arrangements with other telecommunications companies at reasonable prices and under reasonable terms and conditions that do not discriminate against or in favor of any provider, including the local exchange carrier. Appropriate interconnection arrangements shall provide access on an unbundled, nondiscriminatory basis to physical, administrative, and database network components. Local exchange carriers shall provide appropriate interconnection arrangements within six months of receiving a bona fide request for interconnection. The interconnection arrangements must be in the form of a tariff and shall be filed with the Commission for its approval before becoming effective.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp.

02-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

R14-2-1113. Establishment of Universal Service Fund

The Commission shall establish an intrastate universal service fund which shall assure the continued availability of basic telephone service at reasonable rates. The universal service fund shall be structured and administered as required by the Commission.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

R14-2-1114. Service Quality Requirements for the Provision of Competitive Services

- A. General Requirement. Telecommunications companies governed by this Article shall provide quality service in accordance with this rule and with any other service quality requirements established by the Commission.
- B. Telecommunications Company Responsibility. Each telecommunications company governed by this Article:
 1. Shall be responsible for maintaining in safe operating condition all equipment and fixtures owned by and under the exclusive control of the telecommunications company that are used in providing telecommunications services to the customer.
 2. Shall make known to applicants for its service and to its subscribers any information necessary to assist the subscriber or customer in obtaining adequate, efficient, and reasonably priced service.
- C. Continuity of Service. Each telecommunications company providing competitive telecommunications services pursuant to this Article shall make reasonable efforts to supply a satisfactory and continuous level of service.
- D. Billing and Collection
 1. Each telecommunications company governed by this Article shall bill monthly for any competitive services rendered. The following minimum information must be provided on all customer bills:
 - a. A description of the service provided;
 - b. The monthly charge for each service provided;
 - c. The company's toll-free number for billing inquiries;
 - d. The amount or percentage rate of any privilege, sales, use or other taxes that are passed on to the customer as part of the charge for the service provided;
 - e. Any access or other charges that are imposed by order of or at the direction of the Federal Communications Commission; and
 - f. The date on which the bill becomes delinquent.
 2. If the telecommunications company does not provide direct billing to its customers, it shall make arrangements for monthly bills to be rendered to all its customers. However, a local exchange carrier shall not provide billing and collection services for intrastate telecommunications services to any telecommunications company that does not have a Certificate of Convenience and Necessity from the Commission, and that does not have a certification application pending before the Commission.
- E. Insufficient Funds (NSF) Checks. A telecommunications company governed by this Article may include in its tariffs a fee

for each instance where a customer tenders payment for the competitive telecommunications service with an insufficient funds check. When a customer tenders an insufficient check, the telecommunications company may require the customer to make payment in cash, by money order, certified check, or other means which guarantees the customer's payment to the telecommunications company.

F. Deferred Payment Plan.

1. Each telecommunications company may, in lieu of terminating service, offer any customer a deferred payment plan to retire unpaid bills for telecommunications company service. If a deferred payment arrangement is made, current service shall not be discontinued if the customer agrees to pay a reasonable portion of the outstanding balance in installments over a period not to exceed six months and agrees to pay all future bills in accordance with the billing and collection tariffs of the telecommunications company.
2. If a customer does not fulfill the terms of a deferred payment agreement, the telecommunications company shall have the right to disconnect service pursuant to the Commission's termination of service rule, R14-2-509.

G. Late Payment Penalty. A telecommunications company governed by this Article may include in its tariffs a late payment penalty which may be applied to delinquent bills. The amount of the late payment penalty shall be stated on a customer's bill when rendered by the telecommunications company or its agent.

H. Service Interruptions.

1. Each telecommunications company shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur. The telecommunications company shall issue instructions to its employees covering procedures to be followed in the event of any emergency, including national emergencies or local disasters, in order to prevent or mitigate interruption or impairment of service. The Commission shall be notified of major interruptions in service affecting the entire system or any major division.
2. When a telecommunications company plans to interrupt service to perform necessary repairs or maintenance, the telecommunications company shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the telecommunications company.

I. Nonpermissible Termination of Service. A telecommunications company governed by this Article may not disconnect service for:

1. The failure of a customer to pay for services or equipment which are not regulated by the Commission, or
2. For disputed bills where the customer has complied with the Commission's rules on complaints.

J. Permissible Termination of Service. Termination of service without notice may occur in accordance with the provisions of subsection R14-2-509(B). Termination of service with notice shall occur in accordance with provisions of R14-2-509(C) through (E). All local exchange carriers are prohibited from discontinuing local service for alleged delinquency of non-local bills.

K. Notice of Responsible Officer or Agent. Each telecommunications company governed by this Article shall file a written statement with the Commission which provides the name, address (business, residence, and post office) and telephone numbers (business and residence) of at least one officer, agent,

or one employee responsible for the general management of its operations as a telecommunications company in Arizona. Each telecommunications company shall give notice of any change in this information by filing a written statement with the Commission within five days from the date of any such change.

L. Competitive Local Exchange Service. Any telecommunications company providing competitive local exchange service shall comply with the Commission's rules for establishment of service set forth in R14-2-503.

M. Denial of Service/Noncertificated Utilities. A local exchange carrier shall deny service to a noncertificated telecommunications company that intends to use the service requested to provide telecommunications service for hire, sale, or resale to the general public within the state of Arizona. Service shall not be denied if the telecommunications company has an Application for a Certificate of Convenience and Necessity pending before the Commission.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

R14-2-1115. Administrative Requirements

A. Customer Service Complaints. All customer service complaints concerning competitive telecommunications services shall be governed by the provisions of subsection R14-2-510(A).

B. Customer Bill Disputes. All customer bill disputes concerning competitive telecommunications services shall be governed by the provisions of R14-2-510(B) and (C).

C. Filing of Tariffs, Price Levels, and Contracts. Each telecommunications company governed by this Article shall file with the Commission current tariffs, price levels, and contracts that comply with the provisions of this Article and with all Commission rules, orders, and all other requirements imposed by the laws of the state of Arizona.

1. Current tariffs for competitive services shall be maintained on file with the Commission pursuant to the requirements of A.R.S. § 40-365.
2. Current price levels for competitive services shall be filed with the Commission pursuant to the requirements of R14-2-1109(B).
3. Contracts of telecommunications companies governed by this Article shall be filed with the Commission not later than five business days after execution. If the contract includes both competitive and noncompetitive services, it must be filed at least five business days prior to the effective date of the contract and must separately state the tariffed rate for the noncompetitive services and the price for the competitive services.
4. Contracts filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.

D. Accounts and Records.

1. Each telecommunications company shall keep general and subsidiary accounting books and records reflecting the cost of its intrastate properties, assets and liabilities, operating income and expenses, and all other accounting and statistical data which reflect complete, authentic, and accurate information regarding to its properties and operations. These accounting records shall be organized and maintained in such a way as to provide an audit trail

Corporation Commission – Fixed Utilities

- through all segments of the telecommunications company's accounting system.
2. With the exception of local exchange companies, each telecommunications company providing competitive telecommunications services shall maintain its books and records in accordance with Generally Accepted Accounting Principles as promulgated by the Financial Accounting Standards Board and its successors, as amended by any subsequent modification or official pronouncement thereto, which directly relates to regulated industries.
- E. Production of Accounts, Records, and Documents.**
1. All telecommunications companies governed by this Article shall immediately make available, at the time and place the Commission may designate, any accounting records that the Commission may request. Accounting records shall include all or any portion of a telecommunications company's formal and informal accounting books and records along with any underlying and/or supporting documents regardless of the physical location of such books, records, and documents. Accounting records shall also include all books, records or documents which specifically identify, support, analyze, or otherwise explain the reasonableness and accuracy of affiliated interest transactions.
 2. The Commission, at its sole discretion, may inspect any telecommunications company's formal and/or informal accounting books, records, and documents at the company's business premises or at its authorized representative's business premises which may be outside the state of Arizona. If inspection of the telecommunications company's accounting records does take place outside the state of Arizona, the telecommunications company will, to the extent legally permissible, assume all reasonable costs of travel, lodging, per diem, and all other miscellaneous costs incurred by participating personnel employed by the Commission or personnel contracted to represent the Commission in any manner.
- F. Annual Reports to the Commission.** All telecommunications companies providing competitive telecommunications services pursuant to this Article shall submit an annual report to the Commission which shall be filed on or before the 15th day of April for the preceding calendar year.
1. The annual report shall be in a form prescribed by the Commission and, at a minimum, shall contain the following information:
 - a. A statement of income for the reporting year similar in format to R14-2-103, Schedule (C)(1) or (E)(2). The income statement shall be Arizona-specific and reflect operating results in Arizona.
 - b. A balance sheet as of the end of the reporting year similar in format to R14-2-103, Schedule (E)(1). The balance sheet shall be Arizona-specific.
 2. Annual reports filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.
- G. Reports to the Securities and Exchange Commission.** All telecommunications companies shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
- H. Other Reports.** All telecommunications companies shall file with the Commission a copy of all annual reports required by the Federal Communications Commission and, where applicable, annual reports required by the Rural Electrification Administration or any other agency of the United States.
- I. Variations, Exemptions of Commission Rules.** The Commission may consider variations or exemptions from the terms or requirements of any of the rules included herein (14 A.A.C. 2, Article 11) upon the verified application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended by final rulemaking at 8 A.A.R. 4789, effective December 15, 2002 (Supp. 02-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State ex. rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216 848 P.2d 301 (App. 1992)).

ARTICLE 12. ARIZONA UNIVERSAL SERVICE FUND**R14-2-1201. Definitions**

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Administrator" is the person designated pursuant to R14-2-1212 to administer the AUSF and perform the functions required by this Article.
2. "Arizona Corporation Commission" or "Commission." The regulatory agency of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
3. "Arizona Universal Service Fund" or "AUSF" is the funding mechanism established by this Article through which surcharges are collected and support paid in accordance with this Article.
4. "AUSF Support" is the amount of money, calculated pursuant to this Article, which a provider of basic local telephone exchange service is eligible to receive from the AUSF pursuant to this Article.
5. "AUSF Support Area" is the geographic area for which a local exchange carrier's eligibility to receive AUSF support is calculated.
6. "Basic local exchange telephone service" is telephone service that provides the following features:
 - a. Access to 1-party residential service with a voice grade line;
 - b. Access to touchtone capabilities;
 - c. Access to an interexchange carrier;
 - d. Access to emergency services, including but not limited to emergency 911;
 - e. Access to directory assistance service;
 - f. Access to operator service;
 - g. Access to a white page or similar directory listing; and
 - h. Access to telephone relay systems for the hearing and speech impaired.
7. "Benchmark rates" for a telecommunications services provider are those rates approved by the Commission for that provider for basic local exchange telephone service, plus the Customer Access Line Charge approved by the Federal Communications Commission.



[PUC](#) > [Communications](#) > [Service Provider Programs and Information](#) > CLC Applications

How to apply for a Certificate Public Convenience and Necessity (CPCN) to become a Competitive Local Carrier (CLC)

Telecommunications

In order to understand the certification process and comply with its requirements, there are several important documents that applicant should obtain and review before filing an application.

I. PLEASE DOWNLOAD ALL OF THE FOLLOWING DOCUMENTS

- [Public Utilities Code](#)
- [Rules of Practice and Procedure](#)
- [General Order 96-B](#)

The Public Utilities Code is the law, which applicant must adhere to when conducting business as a utility in California. Applicant should familiarize itself with all the sections of the Code that apply to telecommunications companies. The Rules of Practice and Procedure provide guidelines for submitting (ie: filing) the application documents. General Order No. 96-B is particularly useful as reference material for draft tariffs, which must be submitted with the application.

The documents above can also be found on the CPUC web site at: (<http://www.cpuc.ca.gov/>).

II. IN ADDITION YOU WILL NEED COPIES OF SEVERAL FORMAL DOCUMENTS

Copies of the following decisions and applications can be ordered from our Central Files Office by calling (415) 703-2045. You will be billed separately for any orders placed through Central Files.

A. Applicant should read and understand the following **decisions** before submitting an application.

The following decisions are downloadable:

- [D. 95-07-054](#): Adopts initial rules for CLCs in Appendices A and B. The decision and appendices contain Consumer Protection Rules and other information necessary to complete the application and tariffs.
- [D. 95-12-056](#): A "must read" for all facilities-based applicants. The decision establishes rules for interconnection with LECs.
- [D. 95-12-057](#): Decision certifying the initial group of 31 facilities-based CLCs. This decision also includes additional information helpful in preparing an application for CLC authority.
- [D. 96-02-072](#): Decision certifying 59 reseller CLCs. The decision also addresses additional rules and contains a complete set of interim rules (compiled from D. 95-07-054 and D.95-12-057). Decision requires CLC to use Pacific Bell or GTEC limitation of liability tariffs in its tariff.
- [D. 96-03-020](#): Sets wholesale rates and establishes which services are available for resale. Deals with LEC pricing flexibility and rating areas.
- [D. 96-04-049](#): Adopts customer notification and education rules for Calling Party Number (CPN) passage by CLCs.
- [D. 96-04-052](#): Adopts rates for Interim Number Portability for facilities-based CLCs.
- [D.96-12-020](#): Adopts modifications in our administrative processing of facilities-based CLC filings to institute a quarterly schedule for the processing of filings for facilities-based CLC CPCNs.
- [D. 97-08-059](#): Addresses the additional retail services to be offered for resale to CLCs, restrictions on the resale of services and the extent of wholesale discounts to services subject to resale.

The following decisions may be ordered from our Central Files Office at (415) 703-2045:

- D. 97-09-115: Extends the coverage of the Commission's adopted rules for local exchange competition to include the service territories of Roseville Telephone Company and Citizens Telephone Company.
- D. 99-02-038: Relieves competitive local carriers (CLCs) from the requirement to keep their books of account in conformance with the Uniform System of Accounts (USOA).
- D. 99-12-050: Filings docketed after January 1,2000, facilities-based CLCs seeking CPCN authority shall make their filing in the form of a separate application and shall no longer be docketed as a petition in Investigation 95-04-044.

B. Applicant's application will include a request for certification in one of several different areas. Please order a **sample application** for the type of service authority the applicant is interested in providing:

1. For CLC facilities-based local exchange service authority order A. 00-03-045.
2. For CLC reseller service authority order A. 97-06-049.
3. For CLC facilities-based and reseller service authority, A. 01-02-003.
4. For CLC and intra-LATA and inter-LATA toll authority order A.01-01-017.

III. PREPARE YOUR APPLICATION

Please prepare your application CAREFULLY, using the format of the application you ordered in II.B., and the information contained in the [Public Utilities Code, Rules of Practice and Procedure, General Order 96-B](#), as well as the modifications contained in the decisions you ordered in II.A.

Your application must include a sample (draft) tariff that describes all the services and sample rates you intend to offer. In order to draft a tariff that complies with the CPUC's requirement, the following documents are important to obtain and review before drafting.

1. Appendix B to D. 95-07-054
2. General Order 96-B
3. Sample tariff (see sample tariffs submitted by competitors).
4. Limitation of Liabilities - Appendices B & C of D 95-12-057

Applicant may order a sample competitor tariff for facilities-based and reseller service by calling the Communications Division at (415) 703-3052. Appendix B to D. 95-07-054 and Appendices B & C of D 95-12-057 can be obtained by calling Central Files Office at (415) 703-2045.

IV. APPLICATION FEES

A fee of \$75 (check, draft, or money order payable to the CPUC) must be enclosed with all applications requesting facilities-based or reseller authority. Applicant can also request in its CLC application authority for intra-LATA and inter-LATA toll authority with the CLC application at no extra cost. The applicant can also file a separate application to obtain intra-LATA and inter-LATA toll authority using the NDIEC (Non-Dominant Inter-Exchange Carrier) registration process which normally will be shorter (40 days vs. approx. 3 months). The applicant would have to pay an additional \$75 to use the registration process for NDIEC authority.

In addition to the above noted application fee, all applicants requesting facilities-based CLC authority are required to submit an additional \$200 deposit for California Environmental Quality Act (CEQA) processing (not applicable to applicants requesting only reseller authority). This deposit includes applicants applying only for limited facilities-based CLC authority (a limited facilities-based CLC is one that uses facilities that are installed solely within existing structures). The \$200 CEQA deposit (check, draft, or money order payable to the CPUC) must include the statement "CEQA Fee per D.00-08-010".

If the applicant seeks only limited facilities-based authority, only the \$200 shall be required. If the applicant seeks more extensive facilities based authority that requires the preparation of either an MND (mitigated negative declaration) or an EIR (environmental impact report), however, then the applicant shall remain liable for reimbursing the Commission for additional CEQA costs that may be incurred in processing its application. The Commission will bill the applicant for any additional CEQA costs that are applicable once they become known. Please call John Boccio, CEQA Telecommunications Projects Manager, at (415-703-2641) for more detailed information on applicant's CEQA responsibility and related fees before submitting application.

V. SUBMIT (FILE) YOUR APPLICATION AT THE DOCKET OFFICE

Review the [Rules of Practice and Procedure](#) and follow the proper filing procedures.

An original and 6 copies of your application (or petition) must be filed with the Commission's Docket Office. You may mail or hand-deliver your application to the following address:

- California Public Utilities Commission
Docket Office
505 Van Ness Avenue
San Francisco, CA 94102

In addition, 1 copy must be sent to the following:

→ Jack Leutza, Director
Communications Division
505 Van Ness
San Francisco, CA 94102

and for **facilities-based applicants**, one copy must be sent to:

→ John Boccio
CEQA Telecommunications Projects Manager
Energy Division
505 Van Ness Ave
San Francisco, CA 94102

VI. PLEASE DO NOT SOLICIT CUSTOMERS, COLLECT DEPOSITS, OR BEGIN OPERATIONS WITHIN CALIFORNIA DURING THE APPLICATION PROCESS.

VII. WHAT HAPPENS NEXT

A. Your application will be processed by the Docket Office.

1. The Docket Office will contact you if parts of your application are missing or improperly filed.
2. Your case will be assigned an application number.

B. Your application will be forwarded to the Administrative Law Judge (ALJ) Division.

1. An ALJ will be assigned to review your application.
2. The ALJ will contact you if parts of your application are missing or improperly filed.
3. You may contact the ALJ Division at (415) 703-2008 to ask for the name and telephone number of the ALJ who has been assigned to review your application.
4. You may contact the assigned ALJ to ask questions about your application and the review process.

C. The Communications Division, Carrier Branch will review your draft tariff and prepare a tariff deficiency list that will be included in the ALJ decision as Attachment B.

D. The ALJ will write a decision.

E. The Commission will approve the decision during a Commission Conference.

1. Commission Conferences are scheduled twice a month.
2. Decisions for each Commission meeting will appear on the [Commission Agenda](#) which can also be found on the Commission's web page at: www.cpuc.ca.gov.

F. Your company will receive a copy of the decision in the mail after it has been approved. Applicant must then file an advice letter to submit your initial tariff for processing and approval before it can begin providing service.

1. A description of the advice letter format can be found on pages 22 of [General Order No. 96-B](#) (section 8.4).
2. The initial tariff is applicant's draft tariff with your actual rates and all the changes that the Communications Division requested.
3. Applicant's initial tariff must have the decision number of the decision it received in the mail, and the advice letter number used in filing its initial tariff, presented on each page of the tariff in the lower left-hand corner of the page.
4. Applicant's corporate identification number (U-XXXX-C) must be shown on the upper left corner of each tariff sheet.
5. Please file a CD-ROM version of your initial tariff by advice letter to:

→ California Public Utilities Commission
Pal Coordinator
Communications Division
505 Van Ness Avenue, Room 3203
San Francisco, CA 94102

→ [Proposal and Advice Letter filing instructions](#)

6. The advice letter that includes applicant's initial tariff will be effective one day after Communications Division staff approval.
7. The Communications Branch will send an acceptance certificate to the filer after it has reviewed and made the advice letter effective.
8. When applicant receives the acceptance certificate, it will know that its tariffs have been approved. Applicant may then begin to conduct business within California if it has fulfilled all other ordered requirements in the decision that granted applicant authority.

NOTE: The certification process (from filing of the application to the Commissioner's approval of the decision) takes about three months.

Last Modified: 10/30/2009

[Conditions of Use](#) | [Privacy Policy](#) | [CA Home](#)
Copyright © 2007 State of California



CalPhoneInfo
California's Consumer Education Initiative



<http://www.calphoneinfo.com>





CALIFORNIA LAW

CALIFORNIA PUBLIC UTILITIES CODE

TABLE OF CONTENTS

GENERAL PROVISIONS	1-22
DIVISION 1. REGULATION OF PUBLIC UTILITIES	
PART 1. PUBLIC UTILITIES ACT	
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS	201-248
CHAPTER 1.5. ADVISORY BOARDS	270-282
CHAPTER 2. THE PUBLIC UTILITIES COMMISSION: ORGANIZATION	301-327
CHAPTER 2.2. NATURAL GAS RESTRUCTURING	328-328.2
CHAPTER 2.3. ELECTRICAL RESTRUCTURING	
Article 1. General Provisions and Definitions	330-332.2
Article 2. Oversight Board	334-341.5
Article 3. Independent System Operator	345-352.7
Article 3.5. Distributed Energy Resources	353.1-353.15
Article 4. Power Exchange	355-356
Article 5. Regional Compact	359
Article 6. Requirements for the Public Utilities Commission	360-380
Article 7. Research, Environmental, and Low-Income Funds	381-384.2
Article 8. Publicly Owned Utilities	385-387.6
Article 9. State Agencies	388-389
Article 10. Nonutility Power Generators	390-390.1
Article 11. Information Practices	391-393
Article 12. Consumer Protection	394-396
Article 13. Fuel Price Volatility	397
Article 14. Disclosure of Sources of Electrical Generation	398.1-398.5
Article 15. Reliable Electric Service Investments Act	399-399.9
Article 16. California Renewables Portfolio Standard Program	399.11-399.20
CHAPTER 2.5. PUBLIC UTILITIES COMMISSION REIMBURSEMENT FEES	
Article 1. Collection and Disposition of Fees	401-410
Article 2. Common Carriers and Related Businesses	421-426
Article 3. Other Public Utilities	431-435
Article 4. Video Service Franchises	440-444
CHAPTER 3. RIGHTS AND OBLIGATIONS OF PUBLIC UTILITIES	
Article 1. Rates	451-467
Article 2. Tariff Schedules	486-495.7
Article 3. Free or Reduced Rates	521-533
Article 4. Facilities	556-562
Article 5. Reports	581-588
Article 6. Relocation Assistance	600
Article 7. Eminent Domain	610-626
Article 8. Consultant and Advisory Services	631-632
Article 9. Long-Term Plans and Procurement Plans	635
CHAPTER 4. REGULATION OF PUBLIC UTILITIES	
Article 1. Generally	701-715
Article 2. Rates	727-758
Article 3. Equipment, Practices, and Facilities	761-788

Article 3.5. Water Utility Infrastructure, Plant and Facilities	789-790.1
Article 4. Books and Accounts	791-799
Article 5. Stocks and Security Transactions	816-830
Article 5.5. Financing of Transition Costs	840-847
Article 5.6. Financing Utility Recovery	848-848.8
Article 6. Transfer or Encumbrance of Utility Property	851-857
Article 7. Controversies Concerning Relocation of Utility Improvements	861
Article 8. Universal Telephone Service	871-884.5
Article 9. Telephone Prepaid Debit Cards	885-887
Article 10. Natural Gas Surcharge	890-900
CHAPTER 5. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY	
Article 1. Specified Utilities	1001-1013
Article 2. Passenger Stage Corporations	1031-1045
Article 5. Electrical and Gas Corporations	1091-1102
CHAPTER 6. RAILROAD CROSSINGS	1201-1220
CHAPTER 6.5. PROTECTION OF GRADE CROSSINGS	1231-1232
CHAPTER 7. VALUATION OF PUBLIC UTILITY PROPERTIES	1351-1354
CHAPTER 8. DETERMINATION OF JUST COMPENSATION FOR ACQUISITION OF UTILITY PROPERTIES	1401-1421
CHAPTER 8.5. SERVICE DUPLICATION	1501-1507
CHAPTER 9. HEARINGS AND JUDICIAL REVIEW	
Article 1. Hearings	1701-1710
Article 2. Rehearings	1731-1736
Article 3. Judicial Review	1756-1768
Article 4. Witnesses	1791-1795
Article 5. Intervenor's Fees and Expenses	1801-1812
Article 6. Computer Models	1821-1822
CHAPTER 10. OFFICIAL DOCUMENTS AND FEES	1901-1906
CHAPTER 11. VIOLATIONS	2100-2119
PART 2. SPECIFIC PUBLIC UTILITIES	
CHAPTER 2. WATER COMPANIES	2701-2714.5
CHAPTER 2.5. PUBLIC WATER SYSTEM INVESTMENT AND CONSOLIDATION ACT OF 1997	2718-2720
CHAPTER 3. PRIVATE AND MUTUAL WATER SERVICE LAW	2725-2729
CHAPTER 4.5. ELECTRICAL AND GAS CORPORATIONS	2771-2775.6
CHAPTER 5. ELECTRICAL COOPERATIVES	2776-2778
CHAPTER 5.5. ELECTRIC MICROUTILITIES	2780-2780.1
CHAPTER 6. HOME INSULATION ASSISTANCE AND FINANCING	2781-2790
CHAPTER 6.5. TRANSFER OF FACILITIES IN MASTER-METERED MOBILEHOME PARKS AND MANUFACTURED HOUSING COMMUNITIES TO GAS OR ELECTRIC CORPORATION OWNERSHIP	2791-2799
CHAPTER 7. PRIVATE ENERGY PRODUCERS	
Article 1. General Provisions and Definitions	2801-2807
Article 2. Interconnection of Facilities	2811-2816
Article 3. Rights, Obligations, and Charges	2821-2829
CHAPTER 7.5. LOCAL GOVERNMENT RENEWABLE ENERGY SELF-GENERATION PROGRAM	2830
CHAPTER 8. ENERGY EFFICIENCY SYSTEMS	
Article 1. Waste Heat and Carbon Emissions Reduction Act	2840-2845
CHAPTER 9. SOLAR ENERGY SYSTEMS	
Article 1. Solar Energy Systems	2851-2852
Article 2. Solar Water Heating Systems	2860-2867.4
Article 3. Independent Solar Energy Producers	2868-2869
CHAPTER 10. TELEPHONE CORPORATIONS	
Article 1. Automatic Dialing-Announcing Devices	2871-2876
Article 2. Customer and Subscriber Services	2881-2890.2
Article 3. Customer Right of Privacy	2891-2894.10
Article 4. Telecommunication Services	2895-2897
PART 3. SURRENDER OF MUNICIPAL CONTROL	
CHAPTER 1. SURRENDER OF CONTROL BY MUNICIPAL CORPORATIONS	
Article 1. General Provisions and Definitions	2901-2907

Article 2. Petition for Election	2931-2939
Article 3. Elections	2961-2976
PART 4. PRODUCTION AND TRANSMISSION OF PUBLIC UTILITY	
COMMODITIES AND SERVICES	
CHAPTER 1. GAS PRODUCERS' COOPERATIVE ASSOCIATIONS	
Article 1. Definitions	3001-3004
Article 2. General Provisions	3021-3031
Article 3. Purposes	3051
Article 4. Articles of Incorporation	3061-3063
Article 5. Bylaws	3081-3092
Article 6. Directors and Management	3101-3110
Article 7. Powers	3121-3131
Article 8. Financial Provisions	3151-3154
Article 9. Members	3171-3181
Article 10. Marketing Contracts	3201-3206
Article 11. Reorganization of Corporations Organized Pursuant to Other Laws	3221-3224
CHAPTER 2. GAS PRODUCER ACQUISITION OF EASEMENT RIGHTS	
Article 1. Definitions	3250-3252
Article 2. Acquisition of Easement Rights	3255
DIVISION 1.5. CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY ACT	
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS	
3300-3304	
CHAPTER 2. PURPOSE OF THE CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY	
3310	
CHAPTER 3. THE CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY	
Article 1. Creation of the Authority	3320
Article 2. Board of Directors	3325-3328
Article 3. Chief Executive Officer	3330
Article 4. Powers of the Authority	3340-3347
Article 5. Generation Facilities	3350-3356
Article 6. Renewable Energy and Conservation	3365-3367.5
Article 7. Natural Gas	3368
Article 8. Energy Resource Investment Plan	3369
Article 9. Agencies Relation to Other State Energy Oversight	3369.5
CHAPTER 4. CALIFORNIA CONSUMER POWER AND CONSERVATION FINANCING AUTHORITY FUND	
3370	
CHAPTER 5. BONDS	
3380.1-3383	
CHAPTER 6. TERMINATION PROVISIONS	
3384	
DIVISION 2. REGULATION OF RELATED BUSINESSES BY THE PUBLIC UTILITIES COMMISSION	
CHAPTER 1. INTERSTATE AND FOREIGN MOTOR CARRIERS OF HOUSEHOLD GOODS AND PASSENGERS ACT	
Article 1. General Provisions	3901-3950
CHAPTER 2.5. PRIVATE CARRIERS OF PASSENGERS	
Article 1. General Provisions and Definitions	4000-4002
Article 2. Registration	4005-4008
Article 3. Insurance	4010
Article 4. Identification	4015
Article 5. Fines and Penalties	4020-4022
CHAPTER 4. ENFORCEMENT OF FEDERAL PIPELINE SAFETY STANDARDS FOR MOBILEHOME PARK OPERATORS	
4351-4361	
CHAPTER 4.1. ENFORCEMENT OF FEDERAL PIPELINE SAFETY STANDARDS FOR PROPANE OPERATORS	
4451-4465	
CHAPTER 4.5. FOR-HIRE VESSELS	
Article 1. Accident Liability Protection	4660-4672
CHAPTER 6. TRANSPORTATION RATE FUND AND FEES	
5001-5012	
CHAPTER 7. HOUSEHOLD GOODS CARRIERS	
Article 1. General Provisions and Definitions	5101-5113
Article 2. Regulation of Household Goods Carriers	5131-5143
Article 3. Accident Liability Protection	5161-5165
Article 4. Rates	5191-5199
Article 5. Reports, Records, and Inspections	5221-5230

Article 5.3. Delivery and Claims	5241
Article 5.4. Subhauling Agreements	5243-5244.5
Article 5.5. Estimates	5245
Article 6. Proceedings	5251-5260
Article 7. Suspension and Revocation of Permits	5281-5286
Article 8. Fines and Penalties	5311-5322
Article 9. Household Goods Carriers Uniform Business License Tax Act	5325-5335
CHAPTER 8. CHARTER-PARTY CARRIERS OF PASSENGERS	
Article 1. General Provisions and Definitions	5351-5363
Article 2. Authorization to Operate as a Charter-Party Carrier of Passengers	5371-5379.5
Article 3. Regulation of Charter-Party Carriers of Passengers	5381-5390
Article 4. Accident Liability Protection	5391-5393
Article 5. Basis of Charges	5401-5402
Article 6. Fines and Penalties	5411-5420
CHAPTER 9. COMMERCIAL AIR CARRIERS	
Article 1. Accident Liability Protection	5500-5513
DIVISION 2.5. THE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006	5800-5970
DIVISION 3. PUBLIC UTILITY FRANCHISES BY LOCAL GOVERNMENTS	
CHAPTER 1. FRANCHISE PROVISIONS IN GENERAL	
Article 1. Manner of Granting	6001-6017
Article 2. Transportation of Mail Carriers	6041
Article 4. Steam Heat Franchises	6091-6092
CHAPTER 2. GAS, OIL, ELECTRIC, AND WATER FRANCHISES BY MUNICIPALITIES	
Article 1. General Provisions	6201-6205.1
Article 2. Manner of Granting	6231-6235
Article 3. Scope of Franchise	6261-6265
Article 4. Duties and Liabilities of Grantee	6291-6302
CHAPTER 2.5. MUNICIPAL PUBLIC LANDS USE SURCHARGE	
Article 1. Intent	6350
Article 2. Definitions	6351
Article 3. Surcharge	6352-6353
Article 4. Rights, Restrictions, and Compensation	6354-6354.1
CHAPTER 3. RESETTLEMENT OF STREET, SUBURBAN, AND INTERURBAN RAILROAD FRANCHISES	6451-6467
DIVISION 3.5. UTILITY RELOCATION AGREEMENTS	
CHAPTER 1. RELOCATION FOR TRANSIT OR TRANSPORTATION CAPITAL IMPROVEMENT PROJECTS	7000-7005
DIVISION 4. LAWS RELATING TO UTILITY CORPORATIONS AND THEIR EMPLOYEES	
CHAPTER 1. RAILROAD CORPORATIONS	
Article 1. Administration and Finance	7503-7508
Article 2. Powers and Duties	7526-7538
Article 3. Rights of Way and Franchises	7551-7557
Article 4. Conditional Sale of Railroad Equipment	7576-7578
Article 5. Railroad Equipment	7601-7614
Article 6. Fences	7626-7631
Article 7. Operation	7653-7663
Article 7.3. Local Community Rail Security Act of 2006	7665-7667
Article 7.5. Hazardous Materials Transportation by Rail	7671-7673
Article 8. Crimes	7676-7681
Article 9. Rail Service Assistance	7700-7705
Article 10. Railroad Safety and Emergency Planning and Response	7710-7727
CHAPTER 2. STREET RAILROADS	7801-7818
CHAPTER 3. TELEGRAPH OR TELEPHONE CORPORATIONS	7901-7912
CHAPTER 3.5. NEW AREA CODES	7930-7943
CHAPTER 4. INJURY TO PUBLIC UTILITY PROPERTY	7951-7953
CHAPTER 5. ELECTRICAL LINE CONSTRUCTION	
Article 1. Definitions	8001-8003
Article 2. Surface Transmission	8026-8038
Article 3. Underground Transmission	8051-8057

CHAPTER 6.	ELECTRIC SERVICE AREAS	
Article 1.	Designation by Public Utilities Commission	8101-8108
CHAPTER 7.	MISCELLANEOUS REGULATIONS	
Article 1.	Adequate Water Service	8201-8204
Article 2.	Railroad and Steamboat Police	8226-8227
Article 3.	Use of "Spotter" Reports	8251-8252
Article 4.	Retirement Fund Investment Losses	8276-8279
Article 5.	Women and Minority Business Enterprises	8281-8286
DIVISION 4.1.	PROVISIONS APPLICABLE TO PRIVATELY OWNED AND PUBLICLY OWNED PUBLIC UTILITIES	
CHAPTER 1.	NUCLEAR POWERPLANT COMMUNITIES INFORMATION	8301-8302
CHAPTER 2.	DECOMMISSIONING OF NUCLEAR FACILITIES	8321-8330
CHAPTER 3.	GREENHOUSE GASES EMISSION PERFORMANCE STANDARD FOR BASELOAD ELECTRICAL GENERATING RESOURCES	8340-8341
CHAPTER 4.	SMART GRID SYSTEMS	8360-8369
DIVISION 4.8.	PUBLICLY OWNED UTILITIES	9500-9502
DIVISION 4.9.	RESTRUCTURING OF PUBLICLY OWNED ELECTRIC UTILITIES IN CONNECTION WITH THE RESTRUCTURING OF THE ELECTRICAL SERVICES INDUSTRY	9600-9620
DIVISION 5.	UTILITIES OWNED BY MUNICIPAL CORPORATIONS	
CHAPTER 1.	ACQUISITION, OPERATION, AND SALE OF UTILITIES	
Article 1.	Acquisition and Operation	10001-10014
Article 2.	Sale and Disposal	10051-10061
Article 3.	Rights of Way	10101-10107
Article 4.	Rights in Public Lands and Waters	10151-10155
Article 5.	Permitted Use of Improvements	10201-10213
Article 6.	Injury to Property	10251
Article 7.	Financing Provisions	10301-10303
DIVISION 6.	MUNICIPAL UTILITY DISTRICT ACT	
CHAPTER 1.	GENERAL PROVISIONS	
Article 1.	Definitions	11501-11509
Article 2.	General Provisions	11531-11536
CHAPTER 2.	FORMATION OF DISTRICTS	
Article 1.	General Provisions	11561-11562
Article 2.	Request by Resolution	11581-11583
Article 3.	Request by Petition	11611-11614
Article 4.	Election	11641-11656
Article 5.	Establishment of the District	11681
Article 6.	Contest of Incorporation	11701
CHAPTER 3.	INTERNAL ORGANIZATION OF DISTRICTS	
Article 1.	Government	11801
Article 2.	Election of Directors	11821-11832
Article 2.5.	Additional Directors	11850-11855
Article 2.7.	Sacramento Municipal Utility District	11857-11857.5
Article 3.	Terms of Office of Directors	11861-11865
Article 4.	Powers and Duties of Directors	11881-11895
Article 5.	Meetings and Legislation	11907-11912
Article 6.	Other Officers	11926-11942
Article 7.	Initiative and Referendum	11950
CHAPTER 4.	CIVIL SERVICE SYSTEM	
Article 1.	Establishment	12051-12055
Article 2.	Appointments	12101-12104
Article 3.	Blanketing-In	12131-12134
Article 4.	Discipline	12161-12167
CHAPTER 5.	RETIREMENT SYSTEM	
Article 1.	Establishment	12301-12307
Article 2.	Benefits and Contributions	12331-12338
Article 3.	Retirement Board	12361-12368
Article 4.	Investigation and Penalties	12391-12392
CHAPTER 6.	POWERS AND FUNCTIONS OF DISTRICT	
Article 1.	Corporate Power	12701-12703
Article 2.	Contracts	12721-12723
Article 3.	Purchases	12751-12753
Article 4.	Property	12771-12772

Article 5. Utility Works and Service	12801-12827
Article 5a. Claims	12830
Article 6. Indebtedness	12841-12844
Article 6a. Electric, Water, Communications, or Sewage Disposal System Improvements	12850-12857
Article 6b. Bonds	12860
Article 7. Investments	12871-12875
Article 8. Taxation	12891-12904
Article 9. Improvement Act of 1911	12921-12922
Article 11. Municipal Improvement Act of 1913	13010
Article 12. Irrigation Standby or Immediate Availability Charge	13021-13024
CHAPTER 6.5. ELECTRIC SYSTEM IMPROVEMENTS	
Article 1. Application	13071-13073
Article 2. Definitions	13081-13085
Article 3. General Authorization	13091-13096
Article 4. Proceedings for Issuance	13101-13107
Article 5. Sources of Payment	13111-13112
Article 6. Reserve Funds	13121-13124
Article 7. Obligation to Bondholders	13131-13136
Article 8. Consents of Bondholders	13141-13142
Article 9. Form and Content	13151-13152
Article 10. Validity	13161-13166
Article 11. Proceeds	13171-13177
Article 12. Short Term Borrowing	13181-13184
Article 13. Investments	13191-13193
CHAPTER 7. BONDS	
Article 1. Issuance	13201-13212
Article 2. Form and Content	13241-13244
Article 3. Issue and Sale	13261-13263
Article 4. Refunding	13281-13288
Article 5. Status as Investments	13311-13312
Article 6. Validating Proceedings	13341
CHAPTER 7.1. EMERGENCY FINANCING	
Article 1. Incurring Indebtedness for Repair or Replacement of Damaged or Demolished Works	13345-13347
CHAPTER 7.5. SHORT-TERM BORROWING	
Article 1. Proceedings for Incurring Short-Term Indebtedness	13371-13379
Article 2. Borrowing to Purchase Electricity	13391-13392
CHAPTER 8. SPECIAL DISTRICT FOR SEWAGE DISPOSAL OR SOLID WASTE RESOURCE RECOVERY	
Article 1. Proposal of Formation	13451-13456
Article 2. Hearing	13481-13488
Article 3. Election	13511-13513
Article 4. Establishment	13531-13532
Article 5. Powers and Functions	13561-13565
Article 5.5. Waste Water Control	13570-13578
Article 6. Financing	13591-13593
Article 7. Bonds	13621-13626
Article 7.5. Short-Term Borrowing	13631-13633
Article 8. Annexation	13651-13661
Article 9. Dissolution	13691
CHAPTER 9. ANNEXATION OF PUBLIC AGENCIES	
Article 1. Annexation Agreement	13801-13804
Article 2. Approval by District	13821-13827
Article 3. Approval by Public Agency	13851-13856
Article 4. Establishment of Annexation	13886
Article 5. Annexation of Territory Annexed to Public Agencies	13911-13912
Article 6. Effect of Annexation	13931-13932
CHAPTER 10. ANNEXATION OF UNINCORPORATED TERRITORY	14051-14052
CHAPTER 11. EXCLUSION OF TERRITORY	
Article 1. Exclusion of Unincorporated Territory	14351
Article 2. Exclusion of Incorporated Territory	14381-14384
CHAPTER 11.5. HEARINGS	14401-14403.5

DIVISION 7. PUBLIC UTILITY DISTRICT ACT	
CHAPTER 1. GENERAL PROVISIONS	
Article 1. Definitions	15501-15507
Article 2. General Provisions	15531-15533
CHAPTER 2. FORMATION OF DISTRICTS	
Article 1. Petition for Formation	15701-15709
Article 2. Hearing	15731-15738
Article 3. Election	15761-15765
Article 4. Establishment of the District	15791-15798
Article 5. Contest of Incorporation	15821-15822
Article 6. Verification Deputies	15841-15846
CHAPTER 3. INTERNAL ORGANIZATION OF DISTRICTS	
Article 1. Election of Directors	15951-15976
Article 2. Terms and Compensation of Directors	16001-16003
Article 3. Powers and Duties of Directors	16031-16044
Article 4. Meetings and Legislation	16071-16084
Article 5. Other Officers	16111-16116
Article 6. District Elections	16151-16165
Article 7. Employees	16191-16196
CHAPTER 4. POWERS AND FUNCTIONS OF DISTRICTS	
Article 1. Corporate Powers	16401-16409
Article 2. Property	16431-16432
Article 3. Utility Works and Service	16461-16489
Article 5. Purchase of Supplies and Advertising	16531
Article 6. Indebtedness and Financing	16571-16580
Article 7. Receipts, Accounts, and Audits	16601-16614
Article 8. Taxation	16641-16660
Article 9. Payment of Claims Against Districts	16681-16682
CHAPTER 5. ACQUISITION OF WORKS	
Article 1. Petition to Acquire Works	16801-16817
Article 2. Resolution to Acquire Works	16841-16846
Article 3. Joint Acquisition and Use of Sewage Facilities and Water Works	16871-16885
CHAPTER 6. BONDS	
CHAPTER 6.5. ADOPTION OF IMPROVEMENT ACTS	
CHAPTER 7. VALIDATING PROCEEDINGS	
CHAPTER 8. ANNEXATION	
Article 1. Annexation of Unincorporated Territory	17301-17302
Article 2. Annexation of Noncontiguous Territory	17360-17381
CHAPTER 9. EXCLUSION OF TERRITORY	
CHAPTER 11. ZONES IN DISTRICTS IN LAKE TAHOE BASIN	
DIVISION 8. THE MARE ISLAND UTILITY DISTRICT ACT	
CHAPTER 1. GENERAL PROVISIONS	
CHAPTER 2. ORGANIZATION AND FORMATION OF THE DISTRICT	
CHAPTER 3. POWERS	
CHAPTER 4. DEBT	
CHAPTER 5. SUPPLEMENTAL PROVISIONS	
DIVISION 9. AVIATION	
PART 1. STATE AERONAUTICS ACT	
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS	
CHAPTER 2. DEPARTMENT OF TRANSPORTATION AND STATE AERONAUTICS BOARD	
Article 1. Department of Transportation	21204-21207
Article 1.5. State Aeronautics Board	21215-21216
Article 2. Powers and Duties	21240-21258
CHAPTER 3. REGULATION OF AERONAUTICS	
CHAPTER 3.7. WIRE STRIKE EDUCATION AND PREVENTION	
CHAPTER 4. AIRPORTS AND AIR NAVIGATION FACILITIES	
Article 1. Assistance to Political Subdivisions	21601-21605
Article 2. State Airports and Air Navigation Facilities	21631-21646
Article 2.5. Non-Public-Use Airports	21650-21650.2
Article 2.6. Hazard Elimination; Flight Disturbance	21652-21653
Article 2.7. Regulation of Obstructions	21655-21660
Article 3. Regulation of Airports	21661-21669.6

Article 3.5. Airport Land Use Commission	21670-21679.5
Article 4. Aeronautics Fund	21680-21688
Article 4.5. Airport Facilities and Concessions	21690.5-21690.10
Article 5. Los Angeles International Airport Relocation and Development	21690.20-21690.29
CHAPTER 5. PROCEEDINGS	21692-21694
CHAPTER 6. AIRPORT PLANNING	21701-21707
PART 2. AIRPORT DISTRICTS	
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS	22001-22017
CHAPTER 2. FORMATION	
Article 1. Resolution	22151-22153
Article 2. Investigation and Termination by Majority Protest	22176-22178
Article 3. Hearing	22201-22204
Article 4. Election	22226-22232
Article 5. Establishment of District	22256-22259
CHAPTER 3. INTERNAL ORGANIZATION	
Article 1. Board of Directors	22401-22411
Article 2. Officers and Employees	22436-22443
CHAPTER 4. POWERS AND DUTIES	22551-22559
CHAPTER 4.5. CLAIMS	22601
CHAPTER 5. BONDS	
Article 1. General	22701-22708
Article 2. Bond Election	22731-22750
Article 3. Bond Issuance	22776-22786
Article 4. Cancellation of Unsold Bonds	22811-22814
Article 5. Revenue Bonds	22850-22851
CHAPTER 6. TAXATION	22901-22909
PART 5. AIRCRAFT FINANCIAL RESPONSIBILITY ACT	
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS	24230-24247
CHAPTER 2. ADMINISTRATION	24250-24254
CHAPTER 3. SECURITY FOLLOWING ACCIDENT	
Article 1. Accident Report	24300-24302
Article 2. Security	24325-24327
Article 3. Financial Responsibility	24350-24362
CHAPTER 4. PENALTIES	24400-24403
CHAPTER 5. DECLARATION OF INTENT	24410
PART 6. AIRCRAFT DAMAGE REPORTING	24450-24451
DIVISION 10. TRANSIT DISTRICTS	
PART 1. TRANSIT DISTRICTS IN COUNTIES OF ALAMEDA OR CONTRA COSTA	
CHAPTER 1. GENERAL PROVISIONS	
Article 1. Definitions	24501-24509
Article 2. General Provisions	24531-24535
CHAPTER 2. FORMATION OF DISTRICTS	
Article 1. General Provisions	24561-24562
Article 2. Request by Resolution	24581-24583
Article 3. Request by Petition	24611-24614
Article 4. Election	24641-24656
Article 5. Establishment of the District	24681
Article 6. Contest of Incorporation	24701
CHAPTER 3. INTERNAL ORGANIZATION OF DISTRICTS	
Article 1. Government	24801
Article 2. Election of Directors	24821-24832
Article 3. Terms of Office of Directors	24861-24866
Article 4. Powers and Duties of Directors	24881-24890
Article 5. Meetings and Legislation	24906-24912
Article 6. Other Officers	24926-24941
CHAPTER 4. LABOR PROVISIONS	25051-25057
CHAPTER 5. RETIREMENT SYSTEM	
Article 1. Establishment	25301-25306
Article 2. Benefits and Contributions	25331-25337
Article 3. Retirement Board	25361-25364
Article 4. Investigation and Penalties	25391-25392
CHAPTER 6. POWERS AND FUNCTIONS OF DISTRICT	

Article 1.	Corporate Power	25701-25703
Article 2.	Contracts	25721-25722
Article 4.	Property	25771-25772
Article 5.	Transit Facilities and Service	25801-25816
Article 6.	Indebtedness	25841-25849
Article 7.	Investments	25871-25874
Article 8.	Taxation	25891-25904
Article 9.	Claims	25951
CHAPTER 7.	BONDS	
Article 1.	Issuance	26201-26212
Article 2.	Form and Content	26241-26244
Article 3.	Issue and Sale	26261-26263
Article 4.	Refunding	26281-26286
Article 5.	Status as Investments	26311-26312
Article 6.	Validating Proceedings	26341
Article 7.	Revenue Bonds	26351-26352
CHAPTER 8.	ANNEXATION OF CITIES	
Article 1.	Annexation Agreement	26401-26406
Article 2.	Approval by District	26421-26427
Article 3.	Approval by City	26451-26456
Article 4.	Establishment of Annexation	26486
Article 5.	Annexation of Territory to Cities	26511-26512
Article 6.	Effect of Annexation	26531-26532
Article 7.	Contest of Annexation	26551
CHAPTER 9.	ANNEXATION OF UNINCORPORATED TERRITORY	
Article 1.	Annexation Agreement	26651-26658
Article 2.	Approval by District	26681-26687
Article 3.	Approval by Unincorporated Territory	27011-27016
Article 4.	Establishment of Annexation	27041
Article 5.	Annexation Without Election	27061-27063
Article 6.	Effect of Annexation	27091
Article 7.	Contest of Annexation	27111
CHAPTER 10.	EXCLUSION OF TERRITORY	
Article 1.	Exclusion of Unincorporated Territory	27251-27259
Article 2.	Exclusion of Incorporated Territory	27281-27284
Article 3.	Exclusion of Territory Within or Without City ...	27291-27302
CHAPTER 10.5.	SPECIAL TRANSIT SERVICE DISTRICTS	
Article 1.	Proposal of Formation	27401-27406
Article 2.	Hearing	27411-27417
Article 3.	Election	27421-27430
Article 4.	Taxing Subdivision	27441
Article 5.	Bond Election	27451-27456
Article 6.	Annexation	27461-27473
Article 7.	Dissolution	27481
CHAPTER 11.	DISSOLUTION	27501-27509
PART 2.	SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	
CHAPTER 1.	GENERAL PROVISIONS AND DEFINITIONS	28500-28509
CHAPTER 2.	CREATION OF DISTRICT	28600-28602
CHAPTER 3.	GOVERNMENT OF DISTRICT	
Article 2.2.	District Board of Directors	28745-28748.8
Article 2.4.	Redistricting of Election Districts	28750-28750.8
Article 2.6.	Board Selection Election	28752-28752.8
Article 3.	Powers and Duties of Directors	28760-28774
Article 4.	Meetings and Legislation	28790-28796
Article 5.	Officers	28810-28818
Article 6.	General Manager	28830-28836
CHAPTER 4.	LABOR PROVISIONS	28850-28855
CHAPTER 5.	RETIREMENT SYSTEM	
Article 1.	Establishment	28870-28875
Article 2.	Benefits and Contributions	28890-28896
Article 3.	Retirement Board	28910-28913
CHAPTER 6.	POWERS AND FUNCTIONS OF DISTRICT	
Article 1.	Corporate Power	28950-28959
Article 2.	Contracts	28970-28975

Article 4.	Property	29010-29011
Article 5.	Rapid Transit Facilities and Service	29030-29047
Article 6.	Claims	29060
Article 7.	Indebtedness	29080-29081
Article 8.	Investments	29100-29103
CHAPTER 7. TAXATION		
Article 1.	Property Taxation	29120-29131
Article 2.	Retail Transactions and Use Tax	29140-29143
CHAPTER 8. BONDS AND OTHER EVIDENCES OF INDEBTEDNESS		
Article 1.	Authorization of General Obligation Bonds	29150-29168
Article 2.	Form and Terms of General Obligation Bonds	29169-29184
Article 3.	Issuance and Sale of General Obligation Bonds ...	29200-29202
Article 4.	Refunding Bonds	29210-29225
Article 5.	Temporary Borrowing	29230-29235
Article 6.	Revenue Bonds	29240-29241
Article 7.	Equipment Trust Certificates	29250-29253
Article 8.	Special Assessment Bonds	29260-29262
Article 9.	Reissuance of Bonds, Notes, Coupon or Other Evidence of Indebtedness, Lost, Destroyed, Defaced or Mutilated	29270-29271
Article 10.	Past Due Bonds	29280-29282
Article 11.	General Provisions	29290-29293
CHAPTER 9. ANNEXATION		
Article 1.	Annexation Agreement	29500-29504
Article 2.	Approval by District	29520-29526
Article 3.	Approval by County	29540-29545
Article 4.	Establishment of Annexation	29560
Article 5.	Effect of Annexation	29570
Article 6.	Contest of Annexation	29580
Article 7.	Annexation of Land Owned Solely by District	29590
CHAPTER 10. WITHDRAWAL FROM DISTRICT		
CHAPTER 10.5. SPECIAL SERVICE DISTRICTS		
Article 1.	Proposal of Formation	29660-29666
Article 2.	Hearing	29670-29674
Article 3.	Election	29680-29685
Article 4.	Taxing Subdivision	29690
Article 5.	Bond Election	29700-29705
Article 6.	Annexation	29710-29727
Article 7.	Dissolution	29740
CHAPTER 11. DISSOLUTION		
PART 3. SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT		
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS		
CHAPTER 2. CREATION OF DISTRICT		
CHAPTER 3. GOVERNMENT OF DISTRICT		
Article 1.	Board of Directors	30200-30227
Article 3.	Powers and Duties of Directors	30250-30264
Article 4.	Meetings and Legislation	30270-30275
Article 5.	Officers	30300-30308
Article 6.	General Manager	30330-30336
CHAPTER 4. RETIREMENT SYSTEM AND EMPLOYMENT BENEFITS		
Article 1.	Establishment	30400-30406
Article 2.	Benefits and Contributions	30430-30433
Article 3.	Employees Under Bargaining Agreements	30450-30451
Article 4.	Other Benefits	30470-30471
CHAPTER 5. POWERS AND FUNCTIONS OF DISTRICT		
Article 1.	Corporate Power	30500-30507
Article 2.	Contracts	30530-30536
Article 4.	Property	30600
Article 5.	Rapid Transit Facilities and Service	30630-30648
Article 5.5.	Citizens' Advisory Committees	30650-30656
Article 6.	Claims	30670
Article 7.	Indebtedness	30700-30706
Article 8.	Investments	30730
Article 9.	Elections	30740-30742

Article 10. Labor Provisions	30750-30756
CHAPTER 7. BONDS AND OTHER EVIDENCES OF INDEBTEDNESS	
Article 1. Authorization and Issuance of Bonds	30900-30913
Article 2. Revenue Bonds	30930-30932
Article 3. Equipment Trust Certificates	30940-30943
Article 4. Temporary Borrowing	30950-30952
Article 5. Improvement Districts	30960-30970
Article 6. Miscellaneous	30980-30982
CHAPTER 8. PROVISIONS RELATING TO THE LOS ANGELES METROPOLITAN TRANSIT AUTHORITY	31000-31005
CHAPTER 9. ANNEXATION AND EXCLUSION	31400-31413
CHAPTER 10. SEVERABILITY	31520
CHAPTER 11. PREFERENTIAL FACILITIES FOR HIGH-OCCUPANCY VEHICLES ..	32000
CHAPTER 12. SPECIAL BENEFIT ASSESSMENT DISTRICTS	33000-33021
PART 4. ORANGE COUNTY TRANSIT DISTRICT	
CHAPTER 1. GENERAL PROVISIONS	
Article 1. Definitions	40000-40006
Article 2. General Provisions	40010-40014
CHAPTER 3. INTERNAL ORGANIZATION OF DISTRICT	
Article 1. Government	40060-40062
Article 2. Powers and Duties of Directors	40070-40081
Article 3. Meetings and Legislation	40085-40089
Article 4. Other Officers	40095-40098
CHAPTER 4. LABOR PROVISIONS	40120-40129
CHAPTER 5. RETIREMENT SYSTEM	40130
CHAPTER 6. POWERS AND FUNCTIONS OF DISTRICT	
Article 1. Corporate Power	40160-40163
Article 2. Contracts	40165-40166
Article 4. Property	40175-40176
Article 5. Transit Facilities and Service	40180-40187
Article 6. Indebtedness	40200-40201
CHAPTER 6.5. EXISTING SYSTEMS	40221-40224
CHAPTER 7. BONDS	
Article 1. Issuance	40225-40237
Article 2. Form and Content	40240-40243
Article 3. Issue and Sale	40245-40246
Article 4. Status as Investments	40260-40261
Article 5. Validation	40263
Article 6. Revenue Bonds	40265-40266
CHAPTER 8. TAXATION	
Article 1. Property Taxation	40300-40310
Article 2. Transactions and Use Taxes and Revenue Bonds	40330-40336
CHAPTER 9. DISSOLUTION	40500-40507
CHAPTER 10. CONSOLIDATION WITH OTHER DISTRICTS	40600-40617
PART 5. SAN JOAQUIN REGIONAL TRANSIT DISTRICT	
CHAPTER 1. GENERAL PROVISIONS	
Article 1. Definitions	50000-50007
Article 2. General Provisions	50010-50014
CHAPTER 2. FORMATION OF DISTRICT	
Article 1. General Provisions	50020-50021
Article 2. Request by Resolution	50025-50027
Article 3. Request by Petition	50030-50033
Article 4. Election	50035-50045
Article 5. Establishment of the District	50050
Article 6. Contest of Incorporation	50055
CHAPTER 3. INTERNAL ORGANIZATION OF DISTRICT	
Article 1. Government	50060-50064
Article 2. Terms of Office	50067
Article 3. Powers and Duties of Directors	50070-50080
Article 4. Meetings and Legislation	50085-50090
Article 5. Other Officers	50095-50110
CHAPTER 4. LABOR PROVISIONS	50120-50126
CHAPTER 5. RETIREMENT SYSTEM	
Article 1. Establishment	50130-50135

Article 2. Benefits and Contributions	50140-50146
Article 3. Retirement Board	50150-50153
Article 4. Investigation and Penalties	50155-50156
CHAPTER 6. POWERS AND FUNCTIONS OF DISTRICT	
Article 1. Corporate Power	50160-50162
Article 2. Contracts	50165-50166
Article 4. Property	50175-50176
Article 5. Transit Facilities and Service	50180-50190
Article 6. Indebtedness	50200-50203
Article 7. Investments	50205-50208
Article 8. Taxation	50210-50220
CHAPTER 7. BONDS	
Article 1. Issuance	50225-50237
Article 2. Form and Content	50240-50243
Article 3. Issue and Sale	50245-50247
Article 4. Refunding	50250-50256
Article 5. Status as Investments	50260-50261
Article 6. Validation	50263
Article 7. Revenue Bonds	50265-50266
CHAPTER 8. ANNEXATION	50270-50277
CHAPTER 9. DISSOLUTION	50500-50507
PART 6. YOLO COUNTY TRANSPORTATION DISTRICT	
CHAPTER 1. GENERAL PROVISIONS	60000-60062
CHAPTER 2. TRANSACTIONS AND USE TAX	60100-60107
CHAPTER 3. BONDS	60150-60164
PART 7. MARIN COUNTY TRANSIT DISTRICT	
CHAPTER 1. GENERAL PROVISIONS	
Article 1. Definitions	70000-70006
Article 2. General Provisions	70010-70014
CHAPTER 2. FORMATION OF DISTRICT	
Article 1. General Provisions	70020-70022
Article 2. Request by Resolution	70025-70026
Article 3. Request by Petition	70030-70033
Article 4. Election	70035-70044
Article 5. Establishment of the District	70050
Article 6. Contest of Incorporation	70055
CHAPTER 3. INTERNAL ORGANIZATION OF DISTRICT	
Article 1. Government	70060-70061
Article 2. Powers and Duties of Directors	70070-70079
Article 3. Meetings and Legislation	70085-70089
Article 4. Other Officers	70095
CHAPTER 4. LABOR PROVISIONS	70120-70129
CHAPTER 5. RETIREMENT SYSTEM	70130
CHAPTER 6. POWERS AND FUNCTIONS OF DISTRICT	
Article 1. Corporate Power	70160-70162
Article 2. Contracts	70165-70166
Article 4. Property	70175-70176
Article 5. Transit Facilities and Service	70180-70187
Article 6. Indebtedness	70200-70201
Article 7. Property Taxation	70210-70220
Article 8. Retail Transactions and Use Tax	70223-70223.5
CHAPTER 7. BONDS	
Article 1. Issuance	70225-70237
Article 2. Form and Content	70240-70243
Article 3. Issue and Sale	70245-70246
Article 4. Status as Investments	70260-70261
Article 5. Validation	70263
Article 6. Revenue Bonds	70265-70266
CHAPTER 8. ANNEXATION	70270-70277
CHAPTER 9. DISSOLUTION	80000-80007
CHAPTER 10. CONSOLIDATION WITH OTHER DISTRICTS	80010-80019
PART 8. SAN DIEGO COUNTY TRANSIT DISTRICT	
CHAPTER 1. GENERAL PROVISIONS	
Article 1. Definitions	90000-90006

Article 2. General Provisions	90020-90025
CHAPTER 2. FORMATION OF DISTRICT	
Article 1. General Provisions	90050
Article 2. Election	90070-90078
Article 3. Establishment of the District	90100
Article 4. Contest of Incorporation	90120
CHAPTER 3. INTERNAL ORGANIZATION OF DISTRICT	
Article 1. Government	90170-90171
Article 2. Terms of Office	90190-90194
Article 3. Powers and Duties of Directors	90210-90219
Article 4. Meetings and Legislation	90240-90245
Article 5. Other Officers	90260-90300
CHAPTER 5. RETIREMENT SYSTEM	90350-90351
CHAPTER 6. POWERS AND FUNCTIONS OF DISTRICT	
Article 1. Corporate Power	90400-90402
Article 2. Contracts	90420-90421
Article 4. Property	90460-90461
Article 5. Transit Facilities and Service	90480-90490
Article 6. Indebtedness	90500-90508
Article 7. Investments	90520-90522
Article 8. Taxation	90540-90552
Article 9. Claims	90570
CHAPTER 7. BONDS	
Article 1. Issuance	90600-90612
Article 2. Form and Content	90620-90623
Article 3. Issue and Sale	90640-90642
Article 4. Refunding	90660-90666
Article 5. Status as Investments	90680-90681
Article 6. Validating Proceedings	90700
Article 7. Revenue Bonds	90720-90721
CHAPTER 8. ANNEXATION OF CITIES	
Article 1. Annexation Agreement	90770-90774
Article 2. Approval by District	90790-90796
Article 3. Approval by City	90810-90815
Article 4. Establishment of Annexation	90830
Article 5. Annexation of Territory to Cities	90850
Article 6. Effect of Annexation	90870-90871
Article 7. Contest of Annexation	90880
CHAPTER 9. ANNEXATION OF UNINCORPORATED TERRITORY	
Article 1. Annexation Agreement	90930-90936
Article 2. Approval by District	90950-90955
Article 3. Approval by Unincorporated Territory	90970-90975
Article 4. Establishment of Annexation	90990
Article 5. Annexation Without Election	91010-91012
Article 6. Effect of Annexation	91020
Article 7. Contest of Annexation	91040
CHAPTER 10. DISSOLUTION	92000-92008
CHAPTER 11. CONSOLIDATION WITH OTHER DISTRICTS	93000-93017
PART 9. THE SANTA BARBARA METROPOLITAN TRANSIT DISTRICT	
CHAPTER 1. GENERAL PROVISIONS	
Article 1. Definitions	95000-95006
Article 2. General Provisions	95030-95035
CHAPTER 2. FORMATION OF DISTRICT	
Article 1. General Provisions	95100-95101
Article 2. Request by Resolution	95130-95132
Article 3. Request by Petition	95160-95163
Article 4. Election	95190-95200
Article 5. Establishment of the District	95230
Article 6. Contest of Incorporation	95250
CHAPTER 3. INTERNAL ORGANIZATION OF DISTRICT	
Article 1. Government	95400-95404
Article 2. Terms of Office	95430
Article 3. Powers and Duties of Directors	95450-95460
Article 4. Meetings and Legislation	95490-95495

Article 5. Other Officers	95520-95536
CHAPTER 4. LABOR PROVISIONS	95650-95656
CHAPTER 5. RETIREMENT SYSTEM	
Article 1. Establishment	95800-95806
Article 2. Benefits and Contributions	95830-95836
Article 3. Retirement Board	95860-95863
Article 4. Investigation and Penalties	95890-95891
CHAPTER 6. POWERS AND FUNCTIONS OF DISTRICT	
Article 1. Corporate Power	96000-96002
Article 2. Contracts	96030-96031
Article 4. Property	96090-96091
Article 5. Transit Facilities and Service	96120-96130
Article 6. Indebtedness	96150-96153
Article 7. Investments	96180-96192
Article 8. Taxation	96220-96230
CHAPTER 7. BONDS	
Article 1. Issuance	96400-96412
Article 2. Form and Content	96440-96443
Article 3. Issue and Sale	96470-96472
Article 4. Refunding	96500-96506
Article 5. Status as Investments	96530-96531
Article 6. Validation	96560
Article 7. Revenue Bonds	96590-96591
CHAPTER 8. ANNEXATION	96750-96757
CHAPTER 9. EXCLUSION	96900-96902
CHAPTER 10. DISSOLUTION	97000-97007
PART 10. SANTA CRUZ METROPOLITAN TRANSIT DISTRICT	
CHAPTER 1. GENERAL PROVISIONS	
Article 1. Definitions	98000-98007
Article 2. General Provisions	98010-98014
CHAPTER 2. FORMATION OF DISTRICT	
Article 1. General Provisions	98020-98022
Article 2. Request by Resolution	98030-98032
Article 3. Request by Petition	98040-98043
Article 4. Election	98050-98060
Article 5. Establishment of the District	98070
Article 6. Contest of Incorporation	98080
CHAPTER 3. INTERNAL ORGANIZATION OF DISTRICT	
Article 1. Government	98100-98106
Article 2. Powers and Duties of Directors	98110-98119
Article 3. Meetings and Legislation	98130-98135
Article 4. Other Offices	98140-98149
CHAPTER 4. LABOR PROVISIONS	98160-98168
CHAPTER 5. RETIREMENT SYSTEM	
Article 1. Establishment	98180-98185
Article 2. Benefits and Contributions	98190-98196
Article 3. Retirement Board	98200-98203
Article 4. Investigation and Penalties	98204-98205
CHAPTER 6. POWERS AND FUNCTIONS OF DISTRICT	
Article 1. Corporate Power	98210-98214
Article 2. Contracts	98220-98221
Article 4. Property	98233-98234
Article 5. Transit Facilities and Service	98240-98251
Article 6. Indebtedness	98260-98263
Article 7. Investments	98270
Article 8. Property Taxation	98280-98289.5
Article 8.5. Retail Transactions and Use Tax	98290-98296
CHAPTER 6.5. EXISTING SYSTEMS	98300-98305
CHAPTER 7. BONDS	
Article 1. Issuance	98310-98318
Article 2. Form and Content	98330-98335
Article 3. Issue and Sale	98340-98342
Article 4. Refunding	98350-98356
Article 5. Status as Investments	98360-98361

Article 6. Validation	98370
Article 7. Revenue Bonds	98380-98381
CHAPTER 8. ANNEXATION	98390-98396
CHAPTER 9. EXCLUSION	98397-98399
CHAPTER 10. DISSOLUTION	98400-98407
PART 11. PROVISIONS APPLICABLE TO ALL PUBLIC TRANSIT	
CHAPTER 1. SPECIAL BENEFIT DISTRICTS	99000-99026
CHAPTER 2. LOCAL TRANSPORTATION SYSTEMS	99100-99125
CHAPTER 3. MISCELLANEOUS	99150-99172
CHAPTER 4. TRANSPORTATION DEVELOPMENT	
Article 1. General Provisions and Definitions	99200-99217
Article 2. Findings and Declarations	99220-99222
Article 3. Local Transportation Funds	99230-99251
Article 4. Claims for Funds	99260-99273
Article 4.5. Claims for Community Transit Services	99275-99277
Article 5. Relationships Between Operators	99280-99299
Article 6. Miscellaneous	99301-99304
Article 6.5. Transportation Planning and Development Account	99310-99320
Article 7. Limited Obligation Bonds	99320-99383
Article 8. Other Claims for Funds	99400-99408
Article 9. Joint Development Authority	99420
CHAPTER 5. MOTOR VEHICLE FUEL TAX	99500-99510
CHAPTER 6. ACTIONS AND PROCEEDINGS TO CONTEST TAXES	99550
CHAPTER 7. TRANSIT EMPLOYER-EMPLOYEE RELATIONS	
Article 1. General Provisions	99560-99560.3
Article 2. Administration	99561-99561.3
Article 3. Judicial Review	99562
Article 4. Rights, Obligations, Prohibitions, and Unfair Labor Practices	99563-99563.8
Article 5. Employee Organizations: Representation, Recognition, Certification, and Decertification	99564-99564.5
Article 6. Unit Determination	99565
Article 7. Organizational Security	99566-99566.3
Article 8. Rights-Disputes Arbitration	99567
Article 9. Impasse Procedures	99568
Article 10. Public Notice	99569
Article 11. Miscellaneous	99570-99570.4
CHAPTER 8. ADMINISTRATIVE ENFORCEMENT FOR FARE EVASION AND PROHIBITED CONDUCTS	99580-99582
PART 11.5. CLEAN AIR AND TRANSPORTATION IMPROVEMENT ACT OF 1990	
CHAPTER 1. GENERAL PROVISIONS	99600-99605
CHAPTER 2. THE CLEAN AIR AND TRANSPORTATION IMPROVEMENT FUND	99610-99614
CHAPTER 3. GRANTS	99620-99655
CHAPTER 4. APPLICATIONS FOR GRANTS	99660-99669
CHAPTER 5. CONDITIONS	99680-99686
CHAPTER 6. BONDS	99690-99696
PART 12. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY	
CHAPTER 1. TITLE OF ACT AND POLICY	100000-100002
CHAPTER 2. DEFINITIONS	100010-100022
CHAPTER 3. FORMATION OF DISTRICT	
Article 1. General Provisions	100030-100032
Article 2. Formation Election	100040-100050
CHAPTER 3.5. EXISTING SYSTEMS	100055-100055.4
CHAPTER 4. GOVERNMENT OF DISTRICT	
Article 1. Board of Supervisors	100060-100063
Article 2. Powers and Duties of Board of Supervisors	100070-100071
Article 3. Advisory Commission	100080-100082
Article 4. Officers	100090-100091
Article 5. Executive Officer	100100
CHAPTER 5. POWERS AND FUNCTIONS OF DISTRICT	
Article 1. Corporate Power	100110-100115.5
Article 2. Contracts	100120-100126

Article 3. Property	100130-100133
Article 5. Transit Facilities and Service	100160-100169
Article 6. Public Grants, Loans and Contributions	100170-100171
Article 9. Retail Transaction and Use Tax	100250-100256
CHAPTER 6. PERSONNEL	
Article 1. Employee Relations	100300-100309
Article 2. Rights of Employees of Existing Facilities	100350-100351
Article 3. Pension Plan	100370-100372
Article 4. Other Benefits	100380-100381
CHAPTER 7. BONDS AND OTHER EVIDENCES OF INDEBTEDNESS	
Article 1. Authorization and Issuance of General Obligation Bonds	100400-100413
Article 2. Revenue Bonds	100450-100451
Article 3. Equipment Trust Certificates	100460-100463
Article 4. Improvement Acts and Special Benefit Districts	100470-100471
Article 5. Temporary Borrowing	100482-100483
Article 6. Miscellaneous	100490-100492
CHAPTER 8. DISSOLUTION	100500
CHAPTER 9. BENEFIT ASSESSMENT DISTRICTS	100600-100619
PART 13. GOLDEN EMPIRE TRANSIT DISTRICT	
CHAPTER 1. TITLE OF ACT AND POLICY	101000-101001
CHAPTER 2. DEFINITIONS	101005-101014
CHAPTER 3. GENERAL PROVISIONS	101030-101031
CHAPTER 4. GOVERNMENT OF THE DISTRICT	
Article 1. General	101100-101106
Article 2. First Directors	101110-101111
Article 3. Organization and Procedure	101120-101127
Article 4. Compensation and Expenses	101130-101131
Article 5. Vacancies	101135-101136
Article 6. Removal From Office	101140-101141
Article 7. Powers and Duties of Directors	101150-101154
Article 8. Other Officers	101160-101173
CHAPTER 5. GENERAL POWERS AND FUNCTIONS OF THE DISTRICT	
Article 1. Corporate Power	101175-101179
Article 2. Contracts	101180-101181
Article 4. Property	101190-101191
Article 5. Transit Facilities and Service	101195-101206
Article 6. Existing Systems	101208.1-101208.5
CHAPTER 6. GENERAL FINANCIAL PROVISIONS	
Article 1. Deposit and Withdrawal of Funds	101210-101216
Article 2. Indebtedness	101220-101223
Article 3. Investments	101230-101234
Article 4. Audits and Financial Report	101240-101245
Article 5. Budget	101250-101256
Article 6. Services of County and City Officers	101260
CHAPTER 7. TAXATION	101265-101274
CHAPTER 8. BONDS	
Article 1. Issuance	101280-101298
Article 2. Form and Content	101300-101304
Article 3. Issue and Sale	101310-101312
Article 4. Refunding	101315-101321
Article 5. Status as Investments	101325-101326
Article 6. Validation	101330
Article 7. Revenue Bonds	101335-101336
CHAPTER 9. LABOR PROVISIONS	101340-101348
CHAPTER 10. RETIREMENT	101355-101359
CHAPTER 11. MISCELLANEOUS BENEFITS	101365-101366
CHAPTER 12. CHANGE OF ORGANIZATION	101370-101372
PART 14. SACRAMENTO REGIONAL TRANSIT DISTRICT	
CHAPTER 1. TITLE OF ACT AND POLICY	102000-102002
CHAPTER 2. DEFINITIONS	102010-102028
CHAPTER 3. CREATION OF DISTRICT AND ANNEXATION	102050-102055
CHAPTER 4. GOVERNMENT OF DISTRICT	
Article 1. Board of Directors	102100.1-102107

Article 2. Powers and Duties of Board of Directors	102120-102122
Article 3. Advisory Commission	102140-102142
Article 4. Officers	102160-102162
Article 5. General Manager	102180
CHAPTER 5. POWERS AND FUNCTIONS OF DISTRICT	
Article 1. Corporate Power	102200-102206
Article 2. Contracts	102220-102225
Article 3. Property	102240-102244
Article 4. Transit Planning	102260-102265
Article 5. Transit Facilities and Service	102280-102289
Article 5.5. Existing Systems	102300-102304
Article 6. Public Grants, Loans and Contributions	102310-102311
Article 7. Property Taxation	102330-102345
Article 8. Retail Transactions and Use Tax	102350-102355
CHAPTER 6. PERSONNEL	
Article 1. Employee Relations	102400-102410
Article 2. Retirement System	102430-102432
CHAPTER 7. BONDS AND OTHER EVIDENCES OF INDEBTEDNESS	
Article 1. Authorization and Issuance of General Obligation Bonds	102500-102513
Article 2. Revenue Bonds	102530-102531
Article 3. Equipment Trust Certificates	102550-102554
Article 4. Improvement Acts and Special Benefit Districts	102570-102571
Article 5. Temporary Borrowing	102580-102583
Article 6. Miscellaneous	102600-102603
CHAPTER 8. DISSOLUTION	102700
PART 15. SAN MATEO COUNTY TRANSIT DISTRICT	
CHAPTER 1. TITLE OF ACT AND POLICY	103000-103001
CHAPTER 2. DEFINITIONS	103010-103022
CHAPTER 3. FORMATION OF DISTRICT	
Article 1. General Provisions	103050-103053
Article 2. Formation Election	103070-103079
Article 3. Contest of Validity of Formation	103085
CHAPTER 4. GOVERNMENT OF DISTRICT	
Article 1. Board of Directors	103100-103113
Article 2. Powers and Duties of Board of Directors	103140-103141
Article 3. Officers	103160-103162
Article 4. General Manager	103180
CHAPTER 5. POWERS AND FUNCTIONS OF DISTRICT	
Article 1. Corporate Powers	103200-103204
Article 2. Contracts	103220-103226
Article 3. Property	103240-103244
Article 4. Transit Planning	103260-103265
Article 5. Transit Facilities and Service	103280-103290
Article 6. Existing Systems and Services	103300-103303
Article 7. Public Grants, Loans, and Contributions	103310-103311
Article 8. Property Taxation	103320-103333
Article 9. Taxation for Bond Redemption Purposes	103340-103348
Article 10. Retail Transaction and Use Tax	103350-103363
Article 11. Investments	103390-103393
CHAPTER 6. PERSONNEL	
Article 1. Employee Relations	103400-103407
Article 2. Rights of Employees of Existing Facilities	103420-103421
Article 3. Pension Plan	103440-103442
Article 4. Other Benefits	103450-103451
CHAPTER 7. BONDS AND OTHER EVIDENCES OF INDEBTEDNESS	
Article 1. Authorization and Issuance of General Obligation Bonds	103500-103513
Article 2. Revenue Bonds	103530-103531
Article 3. Equipment Trust Certificates	103550-103554
Article 4. Improvement Acts and Special Benefit Districts	103570-103571
Article 5. Temporary Borrowing	103580-103583
Article 6. Miscellaneous	103600-103602
CHAPTER 8. DISSOLUTION	103700

PART 16. SONOMA-MARIN AREA RAIL TRANSIT DISTRICT	
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS	105000-105004
CHAPTER 2. FORMATION OF DISTRICT	105010-105012
CHAPTER 3. GOVERNMENT OF DISTRICT	
Article 1. Board of Directors	105020-105023
Article 2. Powers and Duties of Board of Directors	105030-105032
Article 3. Meetings and Legislation	105040-105044
Article 4. Other Officers	105050-105052
CHAPTER 4. POWERS AND FUNCTIONS OF THE DISTRICT	
Article 1. Corporate Powers	105060-105062
Article 2. Contracts	105070-105076
Article 3. Property	105085-105087
Article 4. Rail Transit Facilities and Service	105095-105105
Article 5. Taxation	105115
Article 6. Investments and Deposits	105125-105126
CHAPTER 5. PERSONNEL	
Article 1. Employee Relations	105140-105143
Article 2. Transfer of Collective Bargaining Rights	105150-105155
Article 3. Rights of Employees of Existing Facilities	105160-105161
Article 4. Retirement System	105170-105172
Article 5. Other Benefits	105180-105181
CHAPTER 6. BONDS AND OTHER EVIDENCE OF INDEBTEDNESS	
Article 1. Authorization and Issuance of General Obligation Bonds	105200-105213
Article 2. Revenue Bonds	105220-105221
Article 3. Equipment Trust Certificates	105230-105233
Article 4. Improvement Acts and Special Benefit Districts	105240-105241
Article 5. Temporary Borrowing	105250-105251
Article 6. Miscellaneous	105260-105262
CHAPTER 7. ANNEXATION	105280-105288
CHAPTER 8. SERVICE ZONES	105300-105310
CHAPTER 9. DISSOLUTION	105330-105337
PART 17. MONTEREY-SALINAS TRANSIT DISTRICT	
CHAPTER 1. GENERAL PROVISIONS	106000-106001
CHAPTER 2. FORMATION OF DISTRICT	106010-106013
CHAPTER 3. GOVERNMENT OF DISTRICT	
Article 1. Board of Directors	106020-106023
Article 2. Meetings	106030-106033
CHAPTER 4. POWERS AND FUNCTIONS OF THE DISTRICT	
Article 1. Personnel	106040-106041
Article 2. Annual Budget	106045
Article 3. Corporate Powers	106050-106051
Article 4. Contracts	106055-106057
Article 5. Financing	106060-106064
DIVISION 11. TRANSIT DEVELOPMENT BOARDS	
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS	120000-120001
CHAPTER 2. CREATION OF BOARDS	120050-120054
CHAPTER 3. ADMINISTRATION	120100-120109
CHAPTER 4. POWERS AND FUNCTIONS	
Article 1. Corporate Powers	120200-120202
Article 2. Contracts	120220-120228
Article 3. Property	120240-120244
Article 4. Facilities and Services	120260-120269
Article 5. Transportation Planning	120300-120302
Article 6. Transportation Funding	120350-120356
Article 7. Public Contributions, Grants, Loans, and Contracts Cooperation	120400
Article 8. Penalties	120450-120452
Article 9. Investments	120470-120473
Article 10. Transit Service Dispute Resolution	120475-120478
CHAPTER 5. PERSONNEL	
Article 1. Employee Relations	120500-120509
Article 2. Rights of Employees of Existing Facilities	120520-120523
Article 3. Employee Protection	120540-120550

CHAPTER 6.	BONDS AND OTHER EVIDENCES OF INDEBTEDNESS	
Article 1.	Revenue Bonds	120630-120631
Article 2.	Equipment Trust Certificates	120650-120654
Article 3.	Improvement Acts and Special Benefit Districts	120670-120671
Article 4.	Temporary Borrowing	120680-120681
Article 5.	Miscellaneous	120700-120702
DIVISION 11.5.	NORTH COUNTY TRANSIT DISTRICT	
CHAPTER 1.	GENERAL PROVISIONS AND DEFINITIONS	125000-125002
CHAPTER 2.	CREATION OF BOARD	125050-125052
CHAPTER 3.	ADMINISTRATION	125100-125107
CHAPTER 4.	POWERS AND FUNCTIONS	
Article 1.	Corporate Powers	125200-125202
Article 2.	Contracts	125220-125227
Article 3.	Property	125240-125241
Article 4.	Transit System	125260
Article 5.	Transportation Planning	
Article 6.	Transportation Funding	125350-125352
Article 7.	Public Contributions, Grants, Loans, and Contracts Cooperation	125400
Article 8.	Transit Enforcement and Penalties	125450-125453
CHAPTER 5.	PERSONNEL	
Article 1.	Application	125500
Article 2.	Employee Relations	125520-125527
Article 3.	Rights of Employees of Existing Facilities	125540-125541
Article 4.	Pension Plan	125550-125552
Article 5.	Other Benefits	125560-125561
Article 6.	Transit Police Force	125600
CHAPTER 6.	BONDS AND OTHER EVIDENCES OF INDEBTEDNESS	125700-125716
DIVISION 12.	COUNTY TRANSPORTATION COMMISSIONS	
CHAPTER 1.	GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS ...	130000-130010
CHAPTER 2.	CREATION OF COMMISSIONS	130050-130059
CHAPTER 3.	ADMINISTRATION	130100-130110
CHAPTER 4.	POWERS AND FUNCTIONS	
Article 1.	Corporate Powers	130200-130203
Article 2.	Contracts	130220-130245
Article 3.	Transportation Systems	130250-130265
Article 4.	Smart Freeway Corridor Telecommunications Demonstration Projects	130290-130292
Article 5.	Transportation Planning and Programming	130300-130306
Article 6.	Transactions and Use Taxes	130350-130355
Article 7.	Transit Service Dispute Resolution	130370-130373
Article 8.	Transit Coordination and Service Program	130380-130385
Article 9.	Transaction and Use Taxes in the County of Orange	130400-130442
Article 10.	Regional Transit Services Program	130450-130455
CHAPTER 5.	LOS ANGELES COUNTY TRANSPORTATION COMMISSION REVENUE BOND ACT	
Article 1.	General Provisions	130500-130502
Article 2.	Definitions	130510-130519
Article 3.	General Powers and Duties	130520-130522
Article 4.	Bonds and Notes	130530-130545
Article 5.	Supplemental Provisions	130550-130553
CHAPTER 6.	CODE OF CONDUCT FOR THE BOARD OF THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ...	130600-130730
DIVISION 12.5.	COUNTY TRAFFIC AND TRANSPORTATION FUNDING IN THE NINE-COUNTY SAN FRANCISCO BAY AREA	
CHAPTER 1.	DEFINITIONS AND GENERAL PROVISIONS	131000-131010
CHAPTER 2.	COUNTY TRANSPORTATION EXPENDITURE PLAN	131050-131057
CHAPTER 3.	RETAIL TRANSACTIONS AND USE TAX	131100-131122
CHAPTER 4.	METROPOLITAN TRANSPORTATION COMMISSION ADMINISTRATION OF ADOPTED COUNTY TRANSPORTATION EXPENDITURE PLAN	131200-131203
CHAPTER 5.	COUNTY TRANSPORTATION AUTHORITY	
Article 1.	Creation of a County Transportation Authority ..	131240-131242

Article 2.	Administration	131260-131269
Article 3.	Powers and Functions	131280-131286
Article 4.	Administration of Adopted County Transportation Plan	131300-131304
DIVISION 12.7. COUNTY AND REGIONAL TRANSPORTATION COMMISSIONS		
CHAPTER 2. SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION		
Article 1.	General Provisions, Findings, and Definitions ..	132000-132006
Article 2.	Creation of the Commission	132050-132053
Article 3.	Administration	132100-132106
Article 4.	Powers and Functions	132200-132205
Article 5.	Transactions and Use Tax	132300-132314
Article 6.	Extension, Expansion, or Increase of Transactions and Use Tax	132320-132334
CHAPTER 3. TRANSPORTATION CONSOLIDATION FOR SAN DIEGO		
Article 1.	General Provisions, Findings, and Definitions	132350-132350.2
Article 2.	Organization and Governance	132351-132351.6
Article 3.	Administration	132352-132352.6
Article 4.	Consolidation	132353-132353.4
Article 5.	Powers and Functions	132354-132354.6
Article 6.	Staffing, Labor, and Retirement Benefits	132355-132355.4
Article 6.3.	Adoption and Revision of a Regional Aviation Strategic Plan and Airport Multimodal Accessibility Plan	132357-132359
Article 6.5.	Adoption and Administration of a Regional Comprehensive Plan	132360-132360.6
Article 7.	Voter Approval	132362-132364
Article 8.	Bonds, Equipment, and Leases	132370-132372.4
CHAPTER 6. PASADENA METRO BLUE LINE CONSTRUCTION AUTHORITY		
CHAPTER 7. EXPOSITION METRO LINE CONSTRUCTION AUTHORITY		
DIVISION 12.8. IMPERIAL COUNTY TRANSPORTATION COMMISSION		
CHAPTER 1. GENERAL PROVISIONS AND CREATION OF COMMISSION ...		
CHAPTER 2. ADMINISTRATION		
CHAPTER 3. POWERS AND FUNCTIONS		
DIVISION 13.1. SANTA CLARA COUNTY TRAFFIC AUTHORITY		
DIVISION 14. COACHELLA VALLEY INTERMODAL TRANSPORTATION AUTHORITY		
DIVISION 15. FRESNO COUNTY TRANSPORTATION AUTHORITY		
CHAPTER 1. GENERAL PROVISIONS		
CHAPTER 2. CREATION OF THE AUTHORITY		
CHAPTER 3. ADMINISTRATION		
CHAPTER 4. POWERS AND FUNCTIONS		
CHAPTER 5. TRANSPORTATION COORDINATION		
CHAPTER 6. TRANSACTIONS AND USE TAXES		
DIVISION 15.5. TUOLUMNE COUNTY TRAFFIC AUTHORITY		
CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS ...		
CHAPTER 2. CREATION OF THE AUTHORITY		
CHAPTER 3. ADMINISTRATION		
CHAPTER 4. POWERS AND FUNCTIONS		
CHAPTER 5. TRANSACTIONS AND USE TAX		
DIVISION 16. PENINSULA RAIL TRANSIT DISTRICT		
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS		
CHAPTER 2. POWERS OF THE DISTRICT		
DIVISION 16.5. STATE TRANSPORTATION CORRIDOR PRESERVATION		
CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS		
CHAPTER 2. DUTIES AND FUNCTIONS		
DIVISION 17. SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY		
CHAPTER 1. GENERAL PROVISIONS		
CHAPTER 2. GOVERNING BODY		
CHAPTER 3. POWERS AND DUTIES		
DIVISION 19. LOCAL TRANSPORTATION AUTHORITIES		
CHAPTER 1. GENERAL PROVISIONS		
CHAPTER 2. CREATION OF LOCAL TRANSPORTATION AUTHORITY		
CHAPTER 3. ADMINISTRATION		
CHAPTER 4. POWERS AND FUNCTIONS		

CHAPTER 5. TRANSACTIONS AND USE TAXES	180200-180207
CHAPTER 6. BONDS	180250-180264
DIVISION 19.1. SONOMA COUNTY REGIONAL CLIMATE PROTECTION AUTHORITY	181000-181016
DIVISION 19.5. CALIFORNIA HIGH-SPEED RAIL SERVICE	
CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS	185000-185012
CHAPTER 2. THE HIGH-SPEED RAIL AUTHORITY	185020-185024
CHAPTER 3. RESPONSIBILITIES OF THE AUTHORITY	185030-185038
DIVISION 20. SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION	
CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS ...	190000-190005
CHAPTER 2. ADMINISTRATION	190100-190103
CHAPTER 3. POWERS AND FUNCTIONS	190200-190203
CHAPTER 4. TRANSACTIONS AND USE TAX	190300-190323
DIVISION 25. RIVERSIDE COUNTY TRANSPORTATION COMMISSION	
CHAPTER 1. GENERAL PROVISIONS, FINDINGS, AND DEFINITIONS ...	240000-240004
CHAPTER 2. ADMINISTRATION	240100-240103
CHAPTER 3. POWERS AND FUNCTIONS	240200-240203
CHAPTER 4. TRANSACTIONS AND USE TAX	240300-240323

[Home Page](#)[Feedback](#)[Help](#)



CPUC Home

**California Public
Utilities Commission**[Word Document](#) [PDF Document](#)**Rules July 2007
TABLE OF CONTENTS**[Chapter 1. Rules of Practice and Procedure 11](#)[Article 1. General Provisions 11](#)[1.1. \(Rule 1.1\) Ethics 11](#)[1.2. \(Rule 1.2\) Construction 11](#)[1.3. \(Rule 1.3\) Definitions 11](#)[1.4. \(Rule 1.4\) Participation in Proceedings 22](#)[1.5. \(Rule 1.5\) Form and Size of Tendered Documents 33](#)[1.6. \(Rule 1.6\) Title Page Requirements 33](#)[1.7. \(Rule 1.7\) Scope of Filing 44](#)[1.8. \(Rule 1.8\) Signatures 44](#)[1.9. \(Rule 1.9\) Service Generally 55](#)[1.10. \(Rule 1.10\) Electronic Mail Service 77](#)[1.11. \(Rule 1.11\) Verification 88](#)[1.12. \(Rule 1.12\) Amendments and Corrections 99](#)[1.13 \(Rule 1.13\) Tendering and Review of Document for Filing 1010](#)[1.14. \(Rule 1.14\) Computation of Time 1212](#)[1.15. \(Rule 1.15\) Filing Fees 1212](#)[1.16. \(Rule 1.16\) Daily Calendar 1212](#)[Article 2. Applications Generally 1212](#)[2.1. \(Rule 2.1\) Contents 1212](#)[2.2. \(Rule 2.2\) Organization and Qualification to Transact Business 1313](#)[2.3. \(Rule 2.3\) Financial Statement 1313](#)

DDM 000110

[2.4. \(Rule 2.4\) CEQA Compliance 1414](#)

[2.5. \(Rule 2.5\) Fees for Recovery of Costs in Preparing EIR 1414](#)

[2.6. \(Rule 2.6\) Protests, Responses, and Replies 1515](#)

[2.7. \(Rule 2.7\) Copy of Document on Request 1616](#)

[Article 3. Particular Applications 1616](#)

[3.1. \(Rule 3.1\) Construction or Extension of Facilities 1616](#)

[3.2. \(Rule 3.2\) Authority to Increase Rates 2020](#)

[3.3. \(Rule 3.3\) Certificate to Operate 2323](#)

[3.4. \(Rule 3.4\) Abandon Passenger Stage Service 2424](#)

[3.5. \(Rule 3.5\) Debt and Equity 2525](#)

[3.6. \(Rule 3.6\) Transfers and Acquisitions 2727](#)

[3.7. \(Rule 3.7\) Public Road Across Railroad 2828](#)

[3.8. \(Rule 3.8\) Alter or Relocate Existing Railroad Crossing 2929](#)

[3.9. \(Rule 3.9\) Railroad Across Public Road 2929](#)

[3.10. \(Rule 3.10\) Railroad Across Railroad 3030](#)

[3.11. \(Rule 3.11\) Light-Rail Transit System Crossings 3030](#)

[3.12. \(Rule 3.12\) Exemption from Undergrounding Rules 3030](#)

[Article 4. Complaints 3333](#)

[4.1. \(Rule 4.1\) Who May Complain 3333](#)

[4.2. \(Rule 4.2\) Form and Contents of Complaint 3333](#)

[4.3. \(Rule 4.3\) Service of Complaints and Instructions to Answer 3535](#)

[4.4. \(Rule 4.4\) Answers 3535](#)

[4.5. \(Rule 4.5\) Expedited Complaint Procedure 3636](#)

[Article 5. Investigations 3737](#)

[5.1. \(Rule 5.1\) Investigations 3737](#)

[5.2. \(Rule 5.2\) Responses to Investigations 3737](#)

[Article 6. Rulemaking 3737](#)

[6.1. \(Rule 6.1\) Rulemaking 3737](#)

[6.2. \(Rule 6.2\) Comments 3737](#)

[6.3. \(Rule 6.3\) Petition for Rulemaking 3838](#)

[Article 7. Categorizing and Scoping Proceedings 3939](#)

[7.1. \(Rule 7.1\) Categorization, Need for Hearing 3939](#)

[7.2. \(Rule 7.2\) Prehearing Conferences 4040](#)

[7.3. \(Rule 7.3\) Scoping Memos 4040](#)

[7.4. \(Rule 7.4\) Consolidation 4141](#)

[7.5. \(Rule 7.5\) Changes to Preliminary Determinations 4141](#)

[7.6. \(Rule 7.6\) Appeal of Categorization 4141](#)

[Article 8. Communications with Decisionmakers and Advisors 4141](#)

[8.1. \(Rule 8.1\) Definitions 4141](#)

[8.2. \(Rule 8.2\) Ex Parte Requirements 4343](#)

[8.3. \(Rule 8.3\) Reporting Ex Parte Communications 4545](#)

[8.4. \(Rule 8.4\) Ex Parte Requirements Prior to Final Categorization 4646](#)

[8.5 \(Rule 8.5\) Communications with Advisors 4646](#)

[8.6 \(Rule 8.6\) Requirements in Proceedings Filed Before January 1, 1998 4646](#)

[Article 9. Administrative Law Judges 4747](#)

[9.1. \(Rule 9.1\) Authority 4747](#)

[9.2. \(Rule 9.2\) Motion for Reassignment on Peremptory Challenge 4747](#)

[9.3. \(Rule 9.3\) Motion for Reassignment for Prior Service 4848](#)

[9.4. \(Rule 9.4\) Motion for Reassignment for Cause 4949](#)

[9.5. \(Rule 9.5\) Circumstances Not Constituting Cause 5050](#)

[9.6. \(Rule 9.6\) Administrative Law Judge's Request for Reassignment 5050](#)

[9.7. \(Rule 9.7\) Waiver 5050](#)

[9.8. \(Rule 9.8\) Prior Rulings 5151](#)

[Article 10. Discovery 5151](#)

[10.1. \(Rule 10.1\) Discovery from Parties 5151](#)

[10.2. \(Rule 10.2\) Subpoenas 5151](#)

[10.3. \(Rule 10.3\) Computer Model Documentation 5252](#)

[10.4. \(Rule 10.4\) Computer Model and Data Base Access 5353](#)

[Article 11. Law and Motion 5454](#)[11.1. \(Rule 11.1\) Motions 5454](#)[11.2. \(Rule 11.2\) Motion to Dismiss 5555](#)[11.3. \(Rule 11.3\) Motion to Compel or Limit Discovery 5555](#)[11.4. \(Rule 11.4\) Motion to File Under Seal 5555](#)[11.5. \(Rule 11.5\) Motion to Seal the Evidentiary Record 5656](#)[11.6. \(Rule 11.6\) Motion for Extension of Time 5656](#)[11.7. \(Rule 11.7\) Referral to Law and Motion Judge 5656](#)[Article 12. Settlements 5656](#)[12.1. \(Rule 12.1\) Proposal of Settlement 5656](#)[12.2. \(Rule 12.2\) Comments 5757](#)[12.3. \(Rule 12.3\) Hearing where Contested 5858](#)[12.4. \(Rule 12.4\) Rejection of Settlement 5858](#)[12.5. \(Rule 12.5\) Adoption Binding, Not Precedential 5959](#)[12.6. \(Rule 12.6\) Confidentiality and Inadmissibility 5959](#)[12.7. \(Rule 12.7\) Applicability 5959](#)[Article 13. Hearings, Evidence, Briefs and Submission 6060](#)[13.1. \(Rule 13.1\) Notice 6060](#)[13.2. \(Rule 13.2\) Presiding Officer 6060](#)

[When evidence is to be taken in a hearing, the assigned Commissioner or assigned Administrative Law Judge shall preside, as follows: 6060](#)

[13.3. \(Rule 13.3\) Assigned Commissioner Presence 6161](#)[13.4. \(Rule 13.4\) Order of Procedure 6161](#)[13.5. \(Rule 13.5\) Limiting Number of Witnesses 6262](#)[13.6. \(Rule 13.6\) Evidence 6262](#)[13.7. \(Rule 13.7\) Exhibits 6262](#)[13.8. \(Rule 13.8\) Prepared Testimony 6363](#)[13.9. \(Rule 13.9\) Official Notice of Facts 6464](#)[13.10. \(Rule 13.10\) Additional Evidence 6464](#)

[13.11. \(Rule 13.11\) Briefs 6464](#)

[13.12. \(Rule 13.12\) Oral Argument in Adjudicatory Proceeding 6565](#)

[13.13. \(Rule 13.13\) Oral Argument before Commission 6565](#)

[13.14. \(Rule 13.14\) Submission and Reopening of Record 6565](#)

[Article 14. Recommended Decisions 6565](#)

[14.1. \(Rule 14.1\) Definitions 6565](#)

[14.2. \(Rule 14.2\) Issuance of Recommended Decision 6666](#)

[14.3. \(Rule 14.3\) Comments on Proposed or Alternate Decision 6767](#)

[14.4. \(Rule 14.4\) Appeal and Review of Presiding Officer's Decision 6868](#)

[14.5. \(Rule 14.5\) Comment on Draft or Alternate Resolution 6868](#)

[14.6. \(Rule 14.6\) Reduction or Waiver of Review 6868](#)

[14.7. \(Rule 14.7\) Exemptions 7070](#)

[Article 15. Commission Decisions 7171](#)

[15.1. \(Rule 15.1\) Commission Meetings 7171](#)

[15.2. \(Rule 15.2\) Meeting Agenda 7171](#)

[15.3. \(Rule 15.3\) Agenda Item Documents 7272](#)

[15.4. \(Rule 15.4\) Decision in Ratesetting or Quasi-Legislative Proceeding 7373](#)

[15.5. \(Rule 15.5\) Decision in Adjudicatory Proceeding 7373](#)

[15.6. \(Rule 15.6\) Service of Decisions and Orders 7373](#)

[Article 16. Rehearing, Modification and Time to Comply 7474](#)

[16.1. \(Rule 16.1\) Application for Rehearing 7474](#)

[16.2. \(Rule 16.2\) Parties Eligible to File Applications for Rehearing 7474](#)

[16.3 \(Rule 16.3\) Oral Argument on Application for Rehearing 7575](#)

[16.4. \(Rule 16.4\) Petition for Modification 7676](#)

[16.5. \(Rule 16.5\) Correction of Obvious Errors 7777](#)

[16.6. \(Rule 16.6\) Extension of Time to Comply 7777](#)

[Article 17. Compensating Intervenors 7878](#)

[17.1. \(Rule 17.1\) Notice of Intent to Claim Compensation 7878](#)

[17.2. \(Rule 17.2\) Eligibility in Phased Proceedings 7979](#)

[17.3. \(Rule 17.3\) Request for Award 7979](#)

[17.4. \(Rule 17.4\) Request for Compensation; Reply to Responses 8080](#)

[Article 18. Forms 8181](#)

[18.1. \(Rule 18.1\) Forms 8181](#)

Chapter 1. Rules of Practice and Procedure

Article 1. General Provisions

1.1. (RULE 1.1) ETHICS

Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this State; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges; and never to mislead the Commission or its staff by an artifice or false statement of fact or law.

Note: Authority cited: Section 1701, Public Utilities Code, Reference: Section 1701, Public Utilities Code,

1.2. (RULE 1.2) CONSTRUCTION

These rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented. In special cases and for good cause shown, the Commission may permit deviations from the rules.

Note: Authority cited: Section 1701, Public Utilities Code.

1.3. (Rule 1.3) Definitions

(a) "Adjudicatory" proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

(b) "Category," "categorization," or "categorized" refers to the procedure whereby a proceeding is determined to be an "adjudicatory," "ratesetting," or "quasi-legislative" proceeding.

(c) "Person" means a natural person or organization.

(d) "Quasi-legislative" proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

(e) "Ratesetting" proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). "Ratesetting" proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. Other proceedings may be categorized as ratesetting, as described in Rule 7.1(e)(2).

(f) "Scoping memo" means an order or ruling describing the issues to be considered in a proceeding and the timetable for resolving the proceeding, as described in Rule 7.3.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.1(a), 1701.1(c)(1)-(4), Public Utilities Code.

1.4. (RULE 1.4) PARTICIPATION IN PROCEEDINGS

(a) A person may become a party to a proceeding by:

- (1) filing an application, petition, or complaint;
- (2) filing (i) a protest or response to an application or petition, or (ii) comments in a rulemaking;
- (3) entering an appearance at a prehearing conference or hearing; or
- (4) filing a motion to become a party.

(b) A person seeking party status pursuant to subsection (a)(2) through (4) of this rule shall:

- (1) fully disclose the persons or entities in whose behalf the filing, appearance or motion is made, and the interest of such persons or entities in the proceeding; and
- (2) show that the contentions will be reasonably pertinent to the issues already presented.

(c) The assigned Administrative Law Judge may, where circumstances warrant, deny party status or limit the degree to which a party may participate in the proceeding.

(d) Any person named as a defendant to a complaint, or as a respondent to an investigation or a rulemaking, is a party to the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code.

1.5. (Rule 1.5) Form and Size of Tendered Documents

Documents tendered for filing must be typewritten, printed, or reproduced on paper 8 ½ inches wide and 11 inches long. Any larger attachments must be legibly reduced or folded to the same size.

The type must be no smaller than 10 points. The impression must use 1 ½ -line or double spacing, except that footnotes and quotations in excess of a few lines may be single-spaced. Both sides of the paper may be used. A document of more than one page must be bound on the left side or upper left-hand corner. If a transmittal letter is submitted (see Rule 1.13(a)), it must not be bound to the tendered document. All copies must be clear and permanently legible.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.

1.6. (RULE 1.6) TITLE PAGE REQUIREMENTS

(a) All documents tendered for filing must have a blank space of at least 1 ½ inches tall by 2 ½ inches wide in the upper right-hand corner for a docket stamp and must show on the first page:

- (1) at the top, the heading "BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA";
- (2) in the upper left below the heading, the caption for the proceeding;
- (3) to the right of the caption, the docket number (if one has been assigned);
- (4) below the caption and docket number, the title of the document and the name of or shortened designation for the party tendering the document.

The title page may extend to additional pages if these required items cannot be set forth on one page. The name, mailing address, telephone number, and, if available, electronic mail address and facsimile transmission number of the person authorized to receive service and other communications on behalf of the party tendering the document must be set forth either on the title page of the

document or following the signature at the end of the document (see Rule 1.8). Documents initiating new proceedings must leave a space to the right of the caption for the docket number. (See Rule 18.1.)

(b) Persons and corporations regulated by the Commission must include their assigned Case Information System (CIS) Identification Number in the captions of documents initiating new proceedings and in the titles of other documents filed in existing cases (e.g., "Application of Pacific Bell (U 1001 C) for Rehearing of Decision 91-01-001").

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

1.7. (RULE 1.7) SCOPE OF FILING

(a) Separate documents must be used to ask the Commission or the Administrative Law Judge to take essentially different types of action (e.g., a document entitled "Complaint and Motion for Protective Order" would be improper; the filing must be split up into two separate documents). Motions to accept a late filing that have a pleading attached must indicate in the title that the pleading is attached to the motion (e.g., Motion to Accept Late Comments, Comments Attached).

(b) Except as otherwise required or permitted by these Rules or the Commission's decisions, general orders, or resolutions, prepared testimony shall not be filed or tendered to the Docket Office. If prepared testimony is issued in support of a filing at the time the filing is made, it shall be served (i) on the service list together with the filing, and (ii) on the Administrative Law Judge or, if none is yet assigned, on the Chief Administrative Law Judge.

Note: Authority cited: Section 1701, Public Utilities Code.

1.8. (RULE 1.8) SIGNATURES

(a) A document tendered for filing must have a signature at the end of the document and must state the date of signing, the signer's address, the signer's telephone number, and (if consenting to service by electronic mail) the signer's electronic mail address.

(b) A signature on a document tendered for filing certifies that the signer has read the document and knows its contents; that to the signer's best knowledge, information, and belief, formed after reasonable inquiry, the facts are true as stated; that any legal contentions are warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; that the document is not tendered for any improper purpose; and that the signer has full power and authority to sign the document. (See Rule 1.1.)

(c) A document tendered for filing must be signed either by a party or by the attorney or representative of the party. If the document is signed by the party, it must be signed as follows:

(1) If the party is an individual or sole proprietorship, by the individual or proprietor.

(2) If the party is a corporation, trust, or association, by an officer.

(3) If the party is a partnership or limited partnership, by a partner or general partner, respectively.

(4) If the party is a governmental entity, by an officer, agent, or authorized employee.

(d) If a document is tendered for filing on behalf of more than one party, only one party (or one party's attorney or representative) need sign the document unless otherwise required by these rules. The title or first paragraph of the document must identify all parties on whose behalf the document is tendered and state their Case Information System Identification Numbers, if applicable (see Rule 1.6 (b)). The signature of a party in these circumstances certifies that the signer has been fully authorized by the indicated parties to sign and tender the document and to make the representations stated in subsection (b) on their behalf.

(e) Except as otherwise required in these rules or applicable statute, either the original signature page or a copy of the original signature page is acceptable for tendering for filing. If a copy of the signature page is tendered, the signer must retain the original, and produce it at the Administrative Law Judge's request, until the Commission's final decision in the proceeding is no longer subject to judicial review.

(f) The Commission may summarily deny a party's request, strike the party's pleadings, or impose other appropriate sanctions for willful violation of subsections (b) or (d) of this rule. The Commission may seek appropriate disciplinary action against an attorney for a willful violation of subsections (b) or (d) of this rule.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.
Reference: Section 1701, Public Utilities Code.

1.9. (Rule 1.9) Service Generally

(a) Except as otherwise provided in these rules or applicable statute, service of a document may be effected by delivering a copy of the document, mailing a copy of the document by first-class mail, or making service by electronic mail (e-mail) as provided in Rule 1.10 to each person whose name is on the official service list or applicable special service list, to the assigned Administrative Law Judge, and to any other person required to be served by statute, by Commission rule or order, or by the Administrative Law Judge. Delivery may be made by handing a copy of the document to the person or leaving it in a place where the person may reasonably be expected to obtain actual and timely receipt. Service by mail is complete when the document is deposited in the mail. Service by e-mail is complete when the e-mail message is transmitted, subject to Rule 1.10(e). The Administrative Law Judge may require more expeditious service or a particular form of service in appropriate circumstances.

(b) In the event that service cannot be completed by any of the methods described in Rule 1.9(a), the Administrative Law Judge may direct or any party may consent to service by other means not listed in Rule 1.9(a) (e.g., facsimile transmission).

(c) A party may serve a Notice of Availability in lieu of all or part of the document to be served:

(1) if the entire document, including attachments, exceeds 50 pages; or

(2) if a document has attachments that are not reproducible in electronic format, or would cause the entire e-mail message, including all attachments, to exceed 3.5 megabytes in size, or would be likely to cause e-mail service to fail for any other reason; or

(3) if the document is made available at a particular Uniform Resource Locator (URL) on the World Wide Web in a readable, downloadable, printable, and searchable format, unless use of such formats is infeasible; or

(4) with the prior permission of the assigned Commissioner or Administrative Law Judge;

except that the document must be served on any party who has previously informed the serving party of its desire to receive the document.

The Notice must comply with Rule 1.6(a), and shall state the document's exact title and summarize its contents, and provide the name, telephone number, and e-mail address, if any, of the person to whom requests for the document should be directed. The document shall be served within one business day after receipt of any such request.

If the document is made available at a particular URL, the Notice of Availability must contain a complete and accurate transcription of the URL or a hyperlink to the URL at which the document is available, and must state the date on which the document was made available at that URL. Such document must be maintained at that URL until the date of the final decision in the proceeding. If changes to the web site change the URL for the document, the serving party must serve and file a notice of the new URL.

(d) A copy of the certificate of service must be attached to each copy of the document (or Notice of Availability) served and to each copy filed with the Commission. If a Notice of Availability is served, a copy of the Notice must also be attached to each copy of the document filed with the Commission.

The certificate of service must state: (1) the exact title of the document served, (2) the place, date, and manner of service, and (3) the name of the person making the service. The certificate filed with the original of the document must be signed by the person making the service (see Rule 1.8(e)).

The certificate filed with the original of the document must also include a list of the names, addresses, and, where relevant, the e-mail addresses of the persons and entities served and must indicate whether they received the complete document or a Notice of Availability. (See Rule 18.1, Form No. 4.)

(e) The Process Office shall maintain the official service list for each pending proceeding and post the service list on the Commission's web site. It is the responsibility of each person on the service list to provide a current mailing address and, if relevant, current e-mail address, to the Process Office for the official service list. A party may change its mailing address or e-mail address for service or its designation of a person for service by sending a written notice to the Process Office and serving a copy of the notice on each person on the official service list.

(f) The Administrative Law Judge may correct and make minor changes to the official service list and may revise the official service list to delete inactive parties. Before establishing a revised service list, the Administrative Law Judge will give each person on the existing service list notice of the proposed revision and an opportunity to respond to the proposal.

(g) The Administrative Law Judge may establish a special service list that includes some, but not all, persons on the official service list for service of documents related to a portion of a proceeding, provided that all persons on the official service list are afforded the opportunity to be included on the special service list. A special service list may be established, for example, for one phase of a multi-phase proceeding or for documents related to issues that are of interest only to certain parties.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.
Reference: Sections 311.5, 1704, Public Utilities Code.

1.10. (RULE 1.10) ELECTRONIC MAIL SERVICE

(a) Electronic mail (e-mail) service may be used in any proceeding which has been assigned a docket number. E-mail service may be made by sending the document, or the Notice of Availability (see Rule 1.9(c)), as an attachment to an e-mail message to all e-mail addresses shown on the official service list on the date of service. Documents must be in readable, downloadable, printable, and searchable formats, unless use of such formats is infeasible. The subject line of the e-mail message must include in the following order (1) the docket number, (2) a brief name of the proceeding, and (3) a brief identification of the document to be served, including the name of the serving party. The text of the e-mail message must identify the electronic format of the document (e.g., PDF, Excel), whether the e-mail message is one of multiple e-mail messages transmitting the document or documents to be served and, if so, how many e-mails, and the name, telephone number, e-mail address, and facsimile transmission number of the person to whom problems with receipt of the document to be served should be directed. The total size of a single e-mail message and all documents attached to it may not exceed 3.5 megabytes.

(b) By providing an e-mail address for the official service list in a proceeding, a person consents to e-mail service in any proceeding in which the person is on an official service list. A person who has previously provided an e-mail address may withdraw consent to e-mail service in a particular proceeding by serving and filing a notice withdrawing consent to e-mail service for that proceeding. A person who does not consent to receive e-mail service in a proceeding may not use e-mail to serve documents in that proceeding.

(c) By utilizing e-mail service, the serving party agrees, in the event of failure of e-mail service, to re-serve the document, no later than the business day after the business day on which notice of the failure of e-mail service is received by the serving party, by any means authorized by these rules, provided that e-mail service may be used for re-service only if (1) the receiving party consents to the use of e-mail service, or (2) the serving party determines that the cause of the failure of e-mail service has been rectified. "Failure of e-mail service" occurs when the serving party receives

notification, in any manner, of non-receipt of an e-mail message, or of the receiving party's inability to open or download an attached document, or of any other inability of the receiving party to access the document to be served. The serving party and receiving party may agree to any form for re-service allowed by these rules. The serving party is not required to re-serve, after failure of e-mail service, any person listed on the official service list for receipt of Commission documents only.

(d) In addition to any other requirements of this rule, the serving party must provide a paper copy of all documents served by e-mail service to the assigned Administrative Law Judge, unless the Administrative Law Judge orders otherwise.

(e) The Commission may serve any document in a proceeding by e-mail service, and/or by making it available at a particular URL, unless doing so would be contrary to state or federal law.

(f) Nothing in this rule alters any of the rules governing filing of documents with the Commission.

(g) The assigned Commissioner or Administrative Law Judge may issue any order consistent with these rules to govern e-mail service in a particular proceeding.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311.5, Public Utilities Code; Section 11104.5, Government Code.

1.11. (Rule 1.11) Verification

(a) Whenever a document is required to be verified by these rules, statute, order, or ruling, the verification must be made either by affidavit sworn or affirmed before a notary public or by declaration under penalty of perjury. When the verification is made by the person who signs the document, the verification must be separately stated and signed.

(b) The verification must be signed (see Rule 1.8(e)) and state that the contents of the document are true of the verifying person's own knowledge, except as to matters that are stated on information or belief, and as to those matters that he or she believes them to be true. (See Rule 18.1.)

(c) If these rules require a party to verify a document, it must be verified as follows (except as provided in subsection (d)):

(1) If the party is an individual or sole proprietorship, by the individual or sole proprietor.

(2) If the party is a corporation, trust, or association, by an officer.

(3) If a party is a partnership or limited partnership, by a partner or general partner, respectively.

(4) If the party is a governmental entity, by an officer, agent, or authorized employee.

(d) A party's attorney or representative may verify a document on behalf of a party if the party is absent from the county where the attorney's or representative's office is located, or if the party for some other reason is unable to verify the document. When a document is verified by the attorney or representative, he or she must set forth in the affidavit or declaration why the verification is not made by the party and must state that he or she has read the document and that he or she is informed and believes, and on that ground alleges, that the matters stated in it are true.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 446, Code of Civil Procedure.

1.12. (Rule 1.12) Amendments and Corrections

(a) An amendment is a document that makes a substantive change to a previously filed document. An amendment to an application, protest, complaint, or answer must be filed and served at least five days before the scheduled date of hearing. All amendments thereafter to such documents and to any other documents may be filed only with the permission of the Administrative Law Judge.

(b) The time for filing a reply, response, protest, or answer to an amended document is calculated from the date the amendment is served. Parties who have filed a reply, response, protest or answer to the previously filed document need not file an additional reply, response, protest or answer to the amendment. If the time for filing a reply, response, protest, or answer to the original document has passed, the Administrative Law Judge may limit or prohibit any further reply, response, protest, or answer to the amended document.

(c) Minor typographical or wording corrections that do not alter the substance of a filed document or the relief requested therein are not to be filed.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.

1.13 (Rule 1.13) Tendering and Review of Document for Filing

(a) Unless otherwise directed, all documents must be tendered for filing at the Commission's Docket Office at the State Building, 505 Van Ness Avenue, San Francisco, California 94102, at the Commission's Offices in the State Building, 320 West 4th Street, Suite 500, Los Angeles, or at the Commission's Offices in the State Building, 1350 Front Street, San Diego.

All documents sent through the mail must be addressed to the Commission's Docket Office in San Francisco. Only hand-delivered documents will be accepted by the Los Angeles or San Diego office. First-class postage charges to San Francisco must be paid at the time documents are tendered to the Los Angeles or San Diego office. Payment of postage charges may be made by check or money order.

A letter transmitting documents to the Docket Office for filing is not required unless acknowledgment of the filing is requested (Rule 1.13(k)).

(b) Except for complaints (see Article 4) and applications for rehearing and their responses (see Rule 16.1), any person tendering a document for filing must submit an original and six exact copies of the document (including any attachments but not including the transmittal letter, if any). After assignment of the proceeding to an Administrative Law Judge, any person tendering a document for filing must submit an original and three copies of the document.

In lieu of the original, one additional copy of the document may be tendered. If a copy is tendered instead of the original, the person tendering the document must retain the original, and produce it at the Administrative Law Judge's request, until the Commission's decision in the proceeding is no longer subject to judicial review.

(c) Tendered documents are not considered filed until they have been reviewed and accepted for filing by the Docket Office in San Francisco.

(d) If a document complies with these rules and is accepted for filing by the Docket Office in San Francisco, the filing will be recorded as of the date it was first tendered for filing at the Commission's San Francisco, Los Angeles, or San Diego office.

(e) Any tendered document that does not comply with applicable rules, Commission orders, or statutes may be rejected. Rejected documents will be returned with a statement of the reasons for the rejection. Documents submitted in response to a rejected document will not be filed.

(f) If a tendered document does not comply with applicable requirements, the Docket Office, with the consent of the person tendering the document, may retitle the document or strike part of the document, and the document as modified may be accepted for filing. The person tendering the document must notify all persons served with the document of the modification or striking.

(g) If a tendered document does not comply with applicable requirements, the person tendering the document may, in the body of the document, request waiver of the requirements to which the document does not conform. The request must state the reasons justifying the waiver. The assigned Administrative Law Judge will decide whether or not to waive the requirements as requested. If the waiver is granted, the document will be filed as of the date it was tendered for filing.

(h) If a tendered document is in substantial, but not complete, compliance with Rules 1.5 through 1.12, the Docket Office may notify the person tendering the document of the defect. If the defect is cured within seven days of the date of this notification, the document will be filed as of the date it was tendered for filing, provided that the document was properly served as required by these rules on or before the date the document was tendered for filing.

(i) Acceptance of a document for filing is not a final determination that the document complies with all requirements of the Commission and is not a waiver of such requirements. The Commission, the Executive Director, or the Administrative Law Judge may require amendments to a document, and the Commission or the Administrative Law Judge may entertain appropriate motions concerning the document's deficiencies.

(j) If a document initiates a new proceeding, the proceeding will be assigned a docket number when the document is accepted for filing. The Chief Administrative Law Judge shall maintain a docket of all proceedings.

(k) The Docket Office will provide an acknowledgment of the filing of any document on request, provided the person tendering the document furnishes, at the time the document is tendered, an extra copy of a letter of transmittal or of the document and a self-addressed envelope with postage fully prepaid. The extra copy of the letter of transmittal or of the document will be stamped with the filing stamp and docket number and returned by mail.

(l) Specific types of documents may be subject to additional requirements stated in other articles of these rules. Additional or different requirements for certain types of filings are stated in the Public Utilities Code or in the Commission's decisions, General Orders, or resolutions.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.

1.14. (Rule 1.14) Computation of Time

When a statute or Commission decision, rule, order, or ruling sets a time limit for performance of an act, the time is computed by excluding the first day (i.e., the day of the act or event from which the designated time begins to run) and including the last day. If the last day falls on a Saturday, Sunday, holiday or other day when the Commission offices are closed, the time limit is extended to include the first day thereafter.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 12, Code of Civil Procedure.

1.15. (Rule 1.15) Filing Fees

Filing fees required by the Public Utilities Code are set forth in the Table of Filing Fees at the end of the Rules. If the fee in the table conflicts with the fee stated in the appropriate statute, the statute prevails. Filings marked with an asterisk should be submitted to the Tariff and License Branch of the Rail Safety and Carriers Division.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 1001, 1007, 1008, 1036, 1904, 2754, 2756, 3902, 4006, 5136, 5371.1, 5373.1 and 5377.1, Public Utilities Code.

1.16. (Rule 1.16) Daily Calendar

A Daily Calendar of newly filed proceedings, proceedings set for hearings, submission of proceedings and newly filed recommended decisions shall be available for public inspection at the Commission's San Francisco and Los Angeles offices. The Daily Calendar shall indicate the time and place of the next three regularly scheduled Commission meetings. Electronic access to the Daily Calendar is available at the Commission's website (www.cpuc.ca.gov).

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.

Article 2. Applications Generally

2.1. (Rule 2.1) Contents

All applications shall state clearly and concisely the authorization or relief sought; shall cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought; shall be verified by at least one applicant (see Rule 1.11); and, in addition to specific requirements for particular types of applications, shall state the following:

(a) The exact legal name of each applicant and the location of principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the State under the laws of which such applicant was created or organized.

(b) The name, title, address, telephone number, facsimile transmission number, and, if the applicant consents to e-mail service, the e-mail address, of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon applicant.

(c) The proposed category for the proceeding, the need for hearing, the issues to be considered, and a proposed schedule. (See Article 7.) The proposed schedule

shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding).

(d) Such additional information as may be required by the Commission in a particular proceeding.

Note: Authority cited: Section 1701, Public Utilities Code.

2.2. (RULE 2.2) ORGANIZATION AND QUALIFICATION TO TRANSACT BUSINESS

All applicants other than natural persons shall submit with their applications a copy of the entity's organizing documents and evidence of the applicant's qualification to transact business in California. If current documentation has previously been filed with the Commission, the application need only make specific reference to such filing.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 167 and 15010.5, Corporations Code.

2.3. (RULE 2.3) FINANCIAL STATEMENT

Wherever these rules provide that a financial statement shall be attached to the application, such statement, unless otherwise provided herein, shall be prepared as of the latest available date, and shall show the following information:

(a) Amount and kinds of stock authorized by articles of incorporation and amount outstanding.

(b) Terms of preference of preferred stock, whether cumulative or participating, or on dividends or assets, or otherwise.

(c) Brief description of each security agreement, mortgage and deed of trust upon applicant's property, showing date of execution, debtor and secured party, mortgagor and mortgagee and trustor and beneficiary, amount of indebtedness authorized to be secured thereby, and amount of indebtedness actually secured, together with any sinking fund provisions.

(d) Amount of bonds authorized and issued, giving name of the public utility which issued same, describing each class separately, and giving date of issue, par value, rate of interest, date of maturity and how secured, together with amount of interest paid thereon during the last fiscal year.

(e) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year.

(f) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by any person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

(g) Rate and amount of dividends paid during the five previous fiscal years, and the amount of capital stock on which dividends were paid each year.

(h) A balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

Note: Authority cited: Section 1701, Public Utilities Code.

2.4. (RULE 2.4) CEQA COMPLIANCE

(a) Applications for authority to undertake any projects that are subject to the California Environmental Quality Act of 1970, Public Resources Code Sections 21000 et seq. (CEQA) and the guidelines for implementation of CEQA, California Administrative Code Sections 15000 et seq., shall be consistent with these codes and this rule.

(b) Any application for authority to undertake a project that is not statutorily or categorically exempt from CEQA requirements shall include a Proponent's Environmental Assessment (PEA). The PEA shall include all information and studies required under the Commission's Information and Criteria List adopted pursuant to Chapter 1200 of the Statutes of 1977 (Government Code Sections 65940 through 65942), which is published on the Commission's Internet website.

(c) Any application for authority to undertake a project that is statutorily or categorically exempt from CEQA requirements shall so state, with citation to the relevant authority.

Note: Authority cited: Section 1701, Public Utilities Code.

2.5. (RULE 2.5) FEES FOR RECOVERY OF COSTS IN PREPARING EIR

(a) For any project where the Commission is the lead agency responsible for preparing the Environmental Impact Report (EIR) or Negative Declaration the proponent shall be charged a fee to recover the Commission's actual cost of preparing the EIR or Negative Declaration. A deposit shall be charged the proponent as set forth below:

A deposit of thirty dollars (\$30) for each one thousand dollars (\$1,000) of the estimated capital cost of the project up to one hundred thousand dollars (\$100,000), ten dollars (\$10) for each one thousand dollars (\$1,000) over one hundred thousand dollars (\$100,000) and up to one million dollars (\$1,000,000), five dollars (\$5) for each one thousand dollars (\$1,000) over one million dollars (\$1,000,000) and up to five million dollars (\$5,000,000), two dollars (\$2) for each one thousand dollars (\$1,000) over five million dollars (\$5,000,000) and up to ten million dollars (\$10,000,000), one dollar (\$1) for each one thousand dollars (\$1,000) over ten million dollars (\$10,000,000) and up to one hundred million dollars (\$100,000,000), and fifty cents (\$0.50) for each one thousand dollars (\$1,000) over one hundred million dollars (\$100,000,000). A minimum deposit of five hundred dollars (\$500) shall be charged for projects with an estimated capital cost of sixteen thousand dollars (\$16,000) or less.

If a project lacks a capital cost basis, the Commission, assigned Commissioner, or Administrative Law Judge shall determine, as early as possible, the deposit to be charged.

(b) The deposit shall be collected whenever an EIR or Negative Declaration is requested or required. The costs of preparing the EIR or Negative Declaration shall be paid from such deposits.

(c) Proponent shall pay the applicable deposit in progressive payments due as follows: One-third of the deposit at the time the application or pleading is filed, an additional one-third no later than 120 days after the time the application or pleading is filed, and the remaining one-third no later than 180 days after the time the application or pleading is filed. Failure to remit full payment of the deposit no later than 180 days after the time the application or pleading is filed may subject the proponent to a fine not exceeding 10 percent of the outstanding amount due. If the costs exceed such deposit the proponent shall pay for such excess costs within 20 days of the date stated on the Commission's bill for any excess costs. If the costs are less than the deposit paid by the proponent, the excess shall be refunded to the proponent.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 21165, Public Resources Code.

2.6. (Rule 2.6) Protests, Responses, and Replies

(a) Unless otherwise provided by rule, decision, or General Order, a protest or response must be filed within 30 days of the date the notice of the filing of the application first appears in the Daily Calendar, and shall be concurrently served on the applicant and each person listed in the application as being authorized to receive service.

(b) A protest objecting to the granting, in whole or in part, of the authority sought in an application must state the facts constituting the grounds for the protest, the effect of the application on the protestant, and the reasons the protestant believes the application, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

(c) Any person may file a response that does not object to the authority sought in an application, but nevertheless presents information that the person tendering the response believes would be useful to the Commission in acting on the application.

(d) Any person protesting or responding to an application shall state in the protest or response any comments or objections regarding the applicant's statement on the proposed category, need for hearing, issues to be considered, and proposed schedule. Any alternative proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding).

(e) An applicant may file replies to protests and responses within 10 days of the last day for filing protests and responses, unless the Administrative Law Judge sets a different date. Replies must be served on all protestants, all parties tendering responses, and the assigned Administrative Law Judge.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.

2.7. (RULE 2.7) COPY OF DOCUMENT ON REQUEST

Applicants, protestants, and parties tendering responses must promptly furnish a copy of their applications, protests, or responses to each person requesting one.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.

Article 3. Particular Applications

3.1. (Rule 3.1) Construction or Extension of Facilities

Applications, under Section 1001 of the Public Utilities Code, to construct or extend facilities shall contain the following information:

(a) A full description of the proposed construction or extension, and the manner in which the same will be constructed.

(b) The names and addresses of all utilities, corporations, persons or other entities, whether publicly or privately operated, with which the proposed construction is likely to compete, and of the cities or counties within which service will be rendered in the exercise of the requested certificate. Whenever a public utility applies to the Commission to extend or establish its water service within a county water district, a public utility or municipal utility district, or other water or utility district, or any area served by such district, such district shall also be named, if it furnishes a like service. The application shall contain a certification that a copy of the application has been served upon or mailed to each such person named.

(c) A map of suitable scale showing the location or route of the proposed construction or extension, and its relation to other public utilities, corporations, persons, or entities with which the same is likely to compete.

(d) A statement identifying the franchises and such health and safety permits as the appropriate public authorities have required or may require for the proposed construction or extension.

(e) Facts showing that public convenience and necessity require, or will require, the proposed construction or extension, and its operation.

(f) A statement detailing the estimated cost of the proposed construction or extension and the estimated annual costs, both fixed and operating associated therewith. In the case of a utility which has not yet commenced service or which has been rendering service for less than twelve months, the applicant shall file as a part of the application supporting statements or exhibits showing that the proposed construction is in the public interest and whether it is economically feasible.

(g) Statements or exhibits showing the financial ability of the applicant to render the proposed service together with information regarding the manner in which applicant proposes to finance the cost of the proposed construction or extension.

(h) A statement of the proposed rates to be charged for service to be rendered by means of such construction or extension. If the application proposes any increase in rates, it shall comply with Rule 3.2(a).

(i) A statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters which both (a) are designated by said section for inclusion in the annual report but occurred or were proposed subsequent to the period covered by the last previous annual report filed by the applicant and (b) are, or will be, connected with the construction or extension proposed in the application; or, if no such matters are known to have so occurred or are then known to be proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.), in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company if not previously filed with the Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (SEC) pursuant to the provisions of Section 12(g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the SEC if not previously filed with the Commission.

(j) In the case of a telephone utility, the estimated number of customers and their requirements for the first and fifth years in the future.

(k) In the case of a gas utility seeking authority to construct a pipeline:

(1) Regarding the volumes of gas to be transported:

(A) A statement of the volumes to be transported via the proposed pipeline including information on the quality of gas and the maximum daily and annual average daily delivery rates.

(B) A statement that copies of summaries of all contracts for delivery and

receipt of gas to be transported via the proposed pipeline and information on the reserves and delivery life pertaining thereto will be made available for inspection on a confidential basis by the Commission or any authorized employee thereof. The terms and provisions of individual contracts for gas supply and data as to reserves or delivery life of individual gas suppliers shall not be required to be stated in the application or in the record of the proceedings, and if disclosed to the commission or to any officer or employee of the Commission on a confidential bases as herein provided, shall not be made public or be open to public inspection.

(2) A summary of the economic feasibility, the market requirements and other information showing the need for the new pipeline and supply.

(3) Where the gas to be transported through the pipeline is to be purchased by the applicant from, or transported by the applicant for, an out-of-state supplier:

(A) A copy of the proposed tariff under which the gas will be purchased or transported.

(B) A statement that the out-of-state pipeline supplier has agreed: (1) to file with this Commission copies of annual reports which it files with the Federal Power Commission; (2) to file with this Commission monthly statements of its revenues, expenses and rate base components; (3) to file with this Commission copies of its tariffs as filed from time to time with the Federal Power Commission; and (4) at all times to permit this Commission or its staff reasonable opportunity for field inspection of facilities and examination of books and records, plus assurance that reasonable requests for operating information otherwise prepared in the course of business will be supplied in connection with any proceeding before the Federal Power Commission.

(l) In the case of an electric utility proposing to construct an electric generating plant:

(1) Load and resource data setting forth recorded and estimated loads (energy and demands), available capacity and energy, and margins for two years actual and three years estimated, on an average year basis.

(2) Existing rated and effective operating capacity of generating plants and the planned additions for a three-year period.

(3) Estimated capital and operating costs of power to be generated by the proposed plant for all competitive fuels which may be used under legislative restrictions in the proposed plant.

(4) For any nuclear plant, a statement indicating that the requisite safety and other license approvals have been obtained or will be applied for, and that a copy of the application to this Commission has been furnished to the State Coordinator of Atomic Energy Development and Radiation Protection.

(m) In the case of a water utility:

(1) An estimate of the number of customers and the requirements for water for the first and fifth years in the future, and the ultimate future development anticipated by applicant, together with a description of the proposed normal, and emergency standby, water facilities for production, storage and pressure to serve the area for which the certificate is sought.

(2) A statement of the estimated operating revenues and estimated expenses, by major classes, including taxes and depreciation, for the first and fifth years in the future attributable to operations in the proposed area.

(3) If the applicant has operated as a water utility elsewhere in the State of California for a period in excess of one year prior to filing the application, a general statement of the operating plans for the proposed area, including a statement whether a new area will be served by existing personnel or will constitute a separate district to be served by new personnel. If the applicant has not operated as a water utility elsewhere in the State of California for a period in

excess of one year prior to filing the application, a description of the operating plans for the proposed area, including, to the extent available, but not necessarily limited to, such items as qualifications of management and operating personnel, proposed operating pressures for the system, plans for water treatment, availability of utility personnel to customers, billing procedures, emergency operation plans and provision for handling customer complaints.

(n) In the case of an application by a water utility in an area in which the facilities have already been constructed, extended or installed:

(1) A detailed statement of the amount and basis of the original cost (estimated if not known) of all plant and of the depreciation reserve applicable thereto.

(2) If the facilities have been rendering service in the area for which the certificate is sought, and

(A) The rates proposed are the same as the tariff rates in the district which includes the area to be certificated, the application shall also include a summary of earnings on a depreciated rate base with respect to such area for the test period or periods upon which applicant bases its justification for the rates to be applied in such area; otherwise

(B) The application shall also comply with Rule 3.2(a), including the furnishing of the information specified in subsections (5) and (6) thereof but made applicable to the proposed rates; provided, however, the information required by subsections (2) and (3) thereof need be furnished only when increases are proposed.

(o) Such additional information and data as may be necessary to a full understanding of the situation.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1001, Public Utilities Code.

3.2. (Rule 3.2) Authority to Increase Rates

(a) Applications for authority to increase rates, or to implement changes that would result in increased rates, shall contain the following data, either in the body of the application or as exhibits annexed thereto or accompanying the application:

(1) A balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

(2) A statement of the presently effective rates, fares, tolls, rentals, or charges which are proposed to be increased, or of the classification, contract, practice, or rule proposed to be altered. Such statement need not be in tariff form.

(3) A statement of the proposed increases or changes which will result in increases, which applicant requests authority to make effective. Such statement need not be in tariff form, but shall set forth the proposed rate structure with reasonable clarity. Except as to carriers, the statement shall also show the amount of proposed gross revenues, together with the percentage of increase, if in excess of one percent, estimated to result from the proposed rates. In the case of common carriers, where a general rate increase application is filed, the statement shall include an estimate of the amount of additional annual gross revenue estimated to result from the increase, which shall be based on the amount of involved traffic handled for the preceding calendar year and shall indicate the percentage by which such estimate exceeds the gross revenues on the involved traffic for the preceding calendar year, if more than one percent. In the case of gas, electric, telephone, telegraph, water and heat utilities, the proposed revenue increase, including the percentage of increase, if in excess of one percent, shall be shown by appropriate rate classifications. If the percentage of increase in revenue is one percent or less, applicant shall so state in its application.

(4) A general rate increase application shall contain a general description of applicant's

property and equipment, or reference to such description in a recent prior application, and a statement of the original cost thereof, together with a statement of the depreciation reserve applicable thereto. If it is impossible to state original cost, the facts creating such impossibility shall be set forth.

(5) A summary of earnings (rate of return summary) on a depreciated rate base for the test period or periods upon which applicant bases its justification for an increase. If adjusted or estimated results are shown for successive periods, they should be on a consistent basis. Wherever adjusted results are shown, the recorded results for the same periods should also be shown.

(6) In rate applications involving a utility having more than one department, district or exchange, the earnings results should be presented for the total utility operations for the company, as well as for the part of the operation for which rate increases are sought.

(7) The application of a gas, electric, telephone, telegraph, water or heat utility for a general rate increase shall contain a statement by the applicant as to which of the optional methods provided in the Internal Revenue Code applicant has elected to employ in computing the depreciation deduction for the purpose of determining its federal income tax payments, and whether applicant has used the same method or methods in calculating federal income taxes for the test period for rate fixing purposes.

(8) The application of a gas, electric, telephone, telegraph, water or heat utility for a general rate increase shall contain a statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters designated by said section for inclusion in the annual report but occurring or proposed subsequent to the period covered by the last annual report filed by applicant; or, if no such matters are known to have so occurred or are known to be then proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.) in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company if not previously filed with the Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (SEC) pursuant to the provisions of Section 12(g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the SEC if not previously filed with the Commission.

(9) In a general rate increase application involving a telephone utility having an annual operating revenue exceeding \$25,000, the rate of return on a depreciated rate base shall be shown separately for its aggregate exchange operations, for its toll operations, and for the total telephone utility operations of applicant.

(10) The application of electrical, gas, heat, telephone, water, or sewer system corporations shall separately state whether or not the increase reflects and passes through to customers only increased costs to the corporation for the services or commodities furnished by it.

(b) Applicants for authority to increase rates shall, within 10 days after filing the application with the Commission, mail a notice to the following stating in general terms the proposed increases in rates or fares: (1) the State, by mailing to the Attorney General and the Department of General Services, when the State is a customer or subscriber whose rates or fares would be affected by the proposed increase; (2) each county, by mailing to the County Counsel (or District Attorney if the county has no County Counsel) and County Clerk, and each city, by mailing to the City Attorney and City Clerk, listed in the current Roster published by the Secretary of State in which the proposed increase is to be made effective; and (3) any other persons whom applicant deems appropriate or as may be required by the Commission.

(c) Gas, electric, telephone, telegraph, water or heat utilities, within ten days after the filing of the application, shall publish at least once in a newspaper of general circulation in the county in which the increases are proposed to be made effective a notice, in general terms, of the proposed increases in rates. Such notice shall state that a copy of said application and related exhibits may be

examined at the offices of the California Public Utilities Commission in San Francisco or Los Angeles and in such offices of the applicant as are specified in the notice, and shall state the locations of such offices. Applicants shall file proof of compliance within 10 days after publication.

(d) Electric, gas, heat, telephone, water, or sewer system corporations, within 45 days, if the corporation operates on a 30-day billing cycle, or within 75 days, if the corporation operates on a 60-day or longer billing cycle, after the filing of an application to increase any rate of charge, other than a change reflecting and passing through to customers only new costs to the corporation which do not result in changes in revenue allocation, for the services or commodities furnished by it, shall furnish to its customers affected by the proposed increase notice of its application either by mailing such notice postage prepaid to such customers or by including such notice with the regular bill for charges transmitted to such customers. The notice shall state the amount of the proposed rate change expressed in both dollar and percentage terms for the entire rate change as well as for each customer classification, a brief statement of the reasons the change is required or sought, and the mailing, and if available, the e-mail, address of the commission to which any customer inquiries may be directed regarding how to participate in, or receive further notices regarding the date, time, and place of any hearing on the application, and the mailing address of the corporation to which any customer inquiries may be directed. Applicants shall file proof of compliance within 10 days after mailing.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 454, Public Utilities Code.

3.3. (Rule 3.3) Certificate to Operate

(a) Applications for a certificate to operate as a vessel common carrier or passenger stage corporation shall contain the following information:

- (1) The type of service being performed by applicant, a general description of it, and a reference to the authority under which existing service is performed.
- (2) The specific authority requested and the particular statutory provision under which the certificate is requested.
- (3) If a carrier of property, a description of specified commodities proposed to be transported, and, if general commodities with exceptions are proposed to be transported, a statement specifying such exceptions.
- (4) The geographical scope of the proposed operation, including the termini and other points proposed to be served, and a concise narrative description of the proposed route.
- (5) A map or sketch of the route and points to be served, drawn to suitable indicated scale, and showing present and proposed operation by distinctive coloring or marking.
- (6) A statement of the rates or fares proposed to be charged and rules governing service. Applications for certificates need not contain tariffs, but shall indicate the level and nature of proposed rates and rules and may refer to tariffs on file with or issued by the Commission.
- (7) A statement indicating the frequency of the proposed service. If "on call" service is proposed, the application shall set forth conditions under which such service would be performed.
- (8) The kind and approximate number of units of equipment to be employed in the proposed service.
- (9) A statement of financial ability to render the proposed service.
- (10) Facts showing that the proposed operation is required by public convenience and necessity.

(b) Every applicant for a passenger stage certificate shall forward a copy of the application to each

public transit operator operating in any portion of the territory sought to be served by the applicant. The applicant shall also mail a notice that the application has been filed with the Commission to all city and county governmental entities and regional transportation planning agencies within whose boundaries passengers will be loaded or unloaded. This notice shall state in general terms the authority sought, including the proposed routes, schedules, fares and equipment. Said notice shall also state that a copy of the application and related exhibits will be furnished by applicant upon written request. A copy of the notice and a certificate of service shall be filed with the application.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 701, 1007, 1032, and 1701, Public Utilities Code.

3.4. (Rule 3.4) Abandon Passenger Stage Service

Applications for authority to abandon passenger stage service, or reduce service to less than one trip per day (excluding Saturday and Sunday), shall include the following information:

NOTE: If more than one point, route, or route segment is included in the application, the indicated data are to be separately stated for each point, route, or route segment.

- (a) A listing of points, routes, and route segments to be abandoned, including identification and a brief description of any other passenger transportation service available at the points or along the routes affected.
- (b) Maps to scale showing each point, route, and route segment to be abandoned.
- (c) Current and proposed timetables covering the affected points and routes.
- (d) Current and proposed certificate authorities covering the affected points and routes.
- (e) Traffic data for a recent representative period, showing numbers of interstate and intrastate passengers (by classification if more than one type of ticket is sold) destined to and originating from each point to be abandoned; also package express shipments similarly stated.
- (f) Description of the fares and rates applicable to the affected services.
- (g) Calculation of the annual interstate and intrastate passenger, express, and other revenues which accrue as a result of the service to be abandoned, along with an explanation of how the revenues were calculated and of any assumptions underlying the calculations.
- (h) Calculations of route miles, annual bus miles, and schedule operating time to be eliminated for each point, route, or route segment to be abandoned.
- (i) Calculation in the Uniform System of Accounts for Common and Contract Motor Carriers of Passengers, of the variable costs of operating each affected service, with an explanation of how the costs were calculated, and of any assumptions underlying the calculations (assumptions should be consistent with those used to calculate revenues). Any labor costs included shall also be separately identified and described.
- (j) Description of any present operating subsidies or financial assistance applicable to the affected service, including identification of source, amounts, duration, and any significant terms or conditions applicable; also description of any proposals or discussions with respect to operating subsidies or financial assistance which have occurred during the year preceding the filing of the application.
- (k) Any additional evidence or legal argument applicant believes to be relevant to the application.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 454, 818, 851, 852, and 1031, Public Utilities Code.

3.5. (Rule 3.5) Debt and Equity

Applications to issue stock or evidences of indebtedness, or to assume liabilities, under Sections 816 through 830 of the Public Utilities Code shall contain the following information:

(a) A general description of applicant's property and its field of operation, the original cost of its property and equipment, individually or by class, and the cost thereof to applicant and the depreciation and amortization reserves applicable to such property and equipment, individually or by class. If it is impossible to state original cost, the facts creating such impossibility shall be stated.

(b) The amount and kind of stock, or other evidence of interest or ownership, which applicant desires to issue, and, if preferred, the nature and extent of the preference; the amount of bonds, notes or other evidences of indebtedness which applicant desires to issue, with terms, rate of interest, and whether and how to be secured; the amount and description of the indebtedness which applicant desires to assume.

(c) The purposes for which the securities are to be issued:

(1) If for property acquisition, a detailed description thereof, the consideration to be paid therefore, and the method of arriving at the amount.

(2) If for construction, completion, extension or improvement of facilities, a description thereof in reasonable detail, the cost or estimated cost thereof, and the reason or necessity for the expenditures.

(3) If for improvement of service, a statement of the character of the improvements proposed, or if for maintenance of service, a statement of the reasons why service should be maintained from capital.

(4) If for discharge or refunding of obligations, a full description of the obligations to be discharged or refunded, including the character, principal amount, discount or premium applicable thereto, date of incurrence, date of maturity, rate of interest, and other material facts concerning such obligations, together with a statement showing the purposes for which such obligations had been incurred, or the proceeds expended, and the Commission's decisions, if any, authorizing the incurrence of such obligations.

(5) If for the financing of the acquisition and installation of electrical and plumbing appliances and agricultural equipment which are sold by other than a public utility, for use within the service area of the public utility, a statement of the reason or necessity for such financing.

(6) If for reorganization or readjustment of indebtedness or capitalization, or for retirement or exchange of securities, a full description of the indebtedness or capitalization to be readjusted or exchanged; complete terms and conditions of the merger, consolidation, exchange or other reorganization; a pro forma balance sheet, if possible, giving effect to such reorganization, readjustment or exchange; and a statement of the reason or necessity for the transaction.

(7) If for reimbursement of moneys actually expended from income, or from any other moneys in the treasury, a general description of the expenditures for which reimbursement is sought, the source of such expenditures, the periods during which such expenditures were made, and the reason or necessity for such reimbursement.

(d) A complete description of the obligation or liability to be assumed by applicant as guarantor, endorser, surety or otherwise, the consideration to be received by applicant, and the reason or necessity for such action.

(e) A statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters designated by said section for inclusion in the annual report but occurring or proposed subsequent to the period covered by the last annual report filed by applicant; or if no such matters are known to have so occurred or are then known to be proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.), in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company if not previously filed with the

Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (SEC) pursuant to the provisions of Section 12(g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the SEC if not previously filed with the Commission.

(f) Copy of deeds of trust, security agreements, mortgages, conditional sales contracts, notes or other instruments (excluding stock certificates) defining the terms of the proposed securities. If the same have already been filed, the application need only make specific reference to such filings.

(g) Copy of each plan, offer or agreement for the reorganization or readjustment of indebtedness or capitalization or for the retirement or exchange of securities.

Note: Authority cited: Section 1701, Public Utilities Code; and Article 12, Section 2, California Constitution. Reference: Section 829, Public Utilities Code.

3.6. (Rule 3.6) Transfers and Acquisitions

Applications to sell, lease or encumber utility property rights, to merge or consolidate facilities, to acquire stock of another utility, or to acquire or control a utility under Sections 851 through 854 of the Public Utilities Code shall be signed by all parties to the proposed transaction, except the lender, vendor under a conditional sales contract, or trustee under a deed of trust, unless such party is a public utility. In addition, they shall contain the following information:

(a) The character of business performed and the territory served by each applicant.

(b) A description of the property involved in the transaction, including any franchises, permits, or operative rights; and, if the transaction is a sale, lease, assignment, merger or consolidation, a statement of the book cost and the original cost, if known, of the property involved.

(c) Detailed reasons upon the part of each applicant for entering into the proposed transaction, and all facts warranting the same.

(d) The agreed purchase price and the terms for payment. If a merger or consolidation, the full terms and conditions thereof.

(e) In consolidation and merger proceedings, a financial statement as outlined in Rule 2.3. In other transfer proceedings, a balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

(f) Copy of proposed deed, bill of sale, lease, security agreement, mortgage, or other encumbrance document, and contract or agreement therefore, if any, and copy of each plan or agreement for purchase, merger or consolidation.

(g) If a merger or consolidation, a pro forma balance sheet giving effect thereto.

(h) Applications that involve a certificate or operative right as vessel common carrier or passenger stage corporation shall also state, as to the seller, whether it is a party to any through routes or joint rates or fares with any other carrier, and whether operation under the rights involved is presently being conducted. If there has been any suspension or discontinuance of service during the preceding three years, the application shall state those facts and circumstances.

Note: Authority cited: Article 12, Section 2, California Constitution; and Section 1701, Public Utilities Code. Reference: Sections 1007, 1010, and 1032.

3.7. (Rule 3.7) Public Road Across Railroad

Applications to construct a public road, highway, or street across a railroad must be made by the

municipal, county, state, or other governmental authority which proposes the construction. Such applications shall be served on the affected railroad corporations, and shall contain the following information:

- (a) The rail milepost and either a legal description of the location of the proposed crossing or a location description using a coordinate system that has accuracy comparable to a legal description.
- (b) Crossing identification numbers of the nearest existing public crossing on each side of the proposed crossing. (Numbers may be obtained from the crossing sign at the crossing, or from the office of the railroad.)
- (c) If the proposed crossing is at-grade, (1) a statement showing the public need to be served by the proposed crossing; (2) a statement showing why a separation of grades is not practicable; and (3) a statement showing the signs, signals, or other crossing warning devices which applicant recommends be provided at the proposed crossing.
- (d) A map of suitable scale (50 to 200 feet per inch) showing accurate locations of all streets, roads, property lines, tracks, buildings, structures or other obstructions to view for a distance of at least 400 feet along the railroad and 200 feet along the highway in each direction from the proposed crossing. Such map shall show the character of surface or pavement and width of same, either existing or proposed, on the street or road adjacent to the proposed crossing and on each side thereof. If the proposed crossing is grade-separated, the map shall also show the vertical and horizontal clearances from the tracks to bridge structures.
- (e) A map of suitable scale (1,000 to 3,000 feet per inch) showing the relation of the proposed crossing to existing roads and railroads in the general vicinity of the proposed crossing.
- (f) A profile showing the ground line and grade line and rate of grades of approach on all highways and railroads affected by the proposed crossing.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1201, 1201.1, 1202, Public Utilities Code.

3.8. (Rule 3.8) Alter or Relocate Existing Railroad Crossing

An application to alter or relocate an existing railroad crossing shall comply with the requirements of Rule 3.7, except that it shall state the crossing identification number of the affected crossing, instead of the nearest crossings, and shall state if the affected crossing will remain within the existing right-of-way.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1201, 1201.1, 1202, Public Utilities Code.

3.9. (Rule 3.9) Railroad Across Public Road

An application to construct a railroad across a public road, highway or street shall be served on the municipal, county, state or other governmental authority having jurisdiction and control over the highway or charged with its construction and maintenance, and shall include, in addition to the information required by Rule 3.7, the following information:

- (a) A copy of the franchise or permit, if any be requisite, from the authority having jurisdiction, which allows the railroad to cross the public road, highway or street involved. If such franchise or permit has already been filed, the application need only make specific reference to such filing.
- (b) The proposed crossing identification number.
- (c) The map referred to in Rule 3.7(d) shall also show, by distinct colorings or lines, all new tracks or changes in existing tracks, within the limits of the drawing, which are to be made in connection with the construction of the proposed crossing.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1201, 1201.1, 1202, Public Utilities Code.

3.10. (RULE 3.10) RAILROAD ACROSS RAILROAD

Applications to construct a railroad or street railroad across a railroad or street railroad shall be served on the affected railroad or street corporations, and shall contain the following information:

- (a) The rail milepost and either a legal description of the location of the proposed crossing or a location description using a coordinate system that has accuracy comparable to a legal description.
- (b) A map of suitable scale (50 to 200 feet per inch) showing accurate locations of all streets, roads, property lines, tracks, buildings, structures or other obstructions to view in the immediate vicinity.
- (c) A map of suitable scale (1,000 to 3,000 feet per inch) showing the relation of the proposed crossing to existing railroads in the general vicinity.
- (d) A profile showing the ground line and grade line of approaches on all railroads affected.
- (e) A true copy of the contract executed by the parties, or other evidence that the carrier to be crossed is willing that the crossing be installed.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1201, 1201.1, 1202, Public Utilities Code.

3.11. (RULE 3.11) LIGHT-RAIL TRANSIT SYSTEM CROSSINGS

Applications to construct crossings or intersections of a light-rail transit system and a public road, street, highway or railroad pursuant to General Order 143-B, Section 9.08, shall comply with the appropriate requirements of Rules 3.7 through 3.10.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 778 and 99152, Public Utilities Code.

3.12. (Rule 3.12) Exemption from Undergrounding Rules

Applications for exemption from the rules in Decision 80864 (74 CPUC 454) for undergrounding electric and telephone lines shall include the following information:

- (a) A statement of facts justifying exemption from undergrounding rules.
- (b) The name of the development or subdivision, if any.
- (c) A map showing the location of the project and any related development or subdivision.
- (d) A legal description, as recorded, of the subdivision or property to which the lines will be extended.
- (e) The length of the line extension proposed.
- (f) The names of the public utilities that will provide service via the line extension.
- (g) Whether the deviation from underground requirements will be permanent or temporary, and, if temporary, the approximate period such facilities will be in place before permanent underground facilities are constructed.
- (h) Whether electric or telephone lines can be installed in joint trenches with water, gas, or sewer lines.
- (i) Whether a Master Plan, Preliminary Map, or Tentative Map was filed pursuant to the Subdivision

Map Act before May 5, 1970, the date of filing, and the agency in which the document was filed.

(j) The minimum parcel size within the subdivision or development.

(k) Whether deed restrictions allow more than one single-family dwelling or accommodation on each parcel or any portions of parcels of less than three acres.

(l) Any unusual environmental circumstances which would cause:

(1) Injury or danger to persons.

(2) Landslides, soil erosion, or exposure of trenches.

(3) Widespread, long-term, or permanent destruction of vegetation.

(4) Serious property damage.

(5) Hindrance to other construction or excessive relocation costs in the case of a temporary deviation.

(m) The identity of scenic highways, state or national parks, or any other areas determined by any governmental agency to be of unusual scenic value to the public within 1,000 feet of the proposed overhead lines; a description of the part of the highway, park, or area within 1,000 feet of the line; and a statement whether the lines will be visible from the highway, park, or area.

(n) Estimates of the costs of undergrounding electric and telephone lines, assuming joint trenching, and of constructing the lines overhead.

(o) Copies of the following documents:

(1) Environmental Impact Statement, Environmental Impact Report, or Negative Declaration prepared by any public agency having permit authority over the project.

(2) Local ordinances requiring undergrounding.

(3) Local ordinances or land use plans permitting parcels of less than three acres.

(4) Local ordinances allowing more than one single-family dwelling or accommodation on each parcel or portion of a parcel of less than three acres.

(5) Applications to the utilities for service, all correspondence pertaining to those applications, and a statement whether an agreement to provide overhead service was concluded with the utility before May 5, 1972.

(6) A list of other public agencies (federal, state, regional, county, district, or municipal) from which approval either has been obtained or will be required, and a summary of any action taken by those agencies with respect to the project.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

Article 4. Complaints

4.1. (Rule 4.1) Who May Complain

(a) A complaint may be filed by:

(1) any corporation or person, chamber of commerce, board of trade, labor organization, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or

organization, or any body politic or municipal corporation, setting forth any act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission; or

(2) any local government, alleging that a holder of a state franchise to construct and operate video service pursuant to Public Utilities Code Section 5800 et seq. is in violation of Section 5890.

(b) No complaint shall be entertained by the Commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water, or telephone corporation, unless it be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city or city and county within which the alleged violation occurred, or by not less than 25 actual or prospective consumers or purchasers of such gas, electric, water, or telephone service.

Note: Authority cited: Section 1702, Public Utilities Code. Reference: Section 1702, and Section 5890(g), Public Utilities Code.

4.2. (Rule 4.2) Form and Contents of Complaint

(a) Complaints shall state the full name, address and telephone number of each complainant and his attorney, if any, and of each defendant. The specific act complained of shall be set forth in ordinary and concise language. The complaint shall be so drawn as to completely advise the defendant and the Commission of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired. At least one complainant must verify the complaint and any amendments thereto. (See Rule 1.11.) The complaint shall state the proposed category for the proceeding, the need for hearing, the issues to be considered, and a proposed schedule. The proposed schedule shall be consistent with the categorization of the proceeding, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding). (See Article 7.)

(b) An original plus six exact copies of a complaint or amendment thereto, plus one additional copy for each named defendant, shall be tendered to the Commission for filing.

(c) A complaint which does not allege that the matter has first been brought to the staff for informal resolution may be referred to the staff to attempt to resolve the matter informally.

Note: Authority cited: Section 1702, Public Utilities Code. Reference: Sections 1702 and 1707, Public Utilities Code.

4.3. (Rule 4.3) Service of Complaints and Instructions to Answer

When a complaint or amendment is accepted for filing (see Rule 1.13), the Docket Office shall serve on each defendant (a) a copy of the complaint or amendment and (b) instructions to answer, with a copy to the complainant, indicating (1) the date when the defendant's answer shall be filed and served, and (2) the Administrative Law Judge assigned to the proceeding. The instructions to answer shall also indicate the category of the proceeding and the preliminary determination of need for hearing, as determined by the Chief Administrative Law Judge in consultation with the President of the Commission.

Note: Authority Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

4.4. (Rule 4.4) Answers

The answer must admit or deny each material allegation in the complaint and shall set forth any new matter constituting a defense. Its purpose is to fully advise the complainant and the Commission of the nature of the defense. At least one of the defendants filing an answer must verify it, but if more than one answer is filed in response to a complaint against multiple defendants, each answer must be separately verified. (See Rule 1.11.)

The answer should also set forth any defects in the complaint which require amendment or clarification. Failure to indicate jurisdictional defects does not waive these defects and shall not prevent a motion to dismiss made thereafter.

The answer must state any comments or objections regarding the complainant's statement on the need for hearing, issues to be considered, and proposed schedule. The proposed schedule shall be consistent with the categorization of the proceeding, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding). (See Article 7.)

Answers must include the full name, address, and telephone number of defendant and the defendant's attorney, if any, and indicate service on all complainants.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

4.5. (Rule 4.5) Expedited Complaint Procedure

(a) This procedure is applicable to complaints against any electric, gas, water, heat, or telephone company where the amount of money claimed does not exceed the jurisdictional limit of the small claims court referenced in Pub. Util. Code § 1702.1.

(b) No attorney at law shall represent any party other than himself or herself under the Expedited Complaint Procedure.

(c) No pleading other than a complaint and answer is necessary.

(d) A hearing without a reporter shall be held within 30 days after the answer is filed.

(e) Separately stated findings of fact and conclusions of law will not be made, but the decision may set forth a brief summary of the facts.

(f) Complaints calendared under the Expedited Complaint Procedure are exempt from the categorizing and scoping requirements of Article 7 and the requirements of Article 8 regarding communications with decisionmakers and Commissioners' advisors.

(g) The Commission or the presiding officer, when the public interest so requires, may at any time prior to the filing of a decision terminate the Expedited Complaint Procedure and recalendar the matter for hearing under the Commission's regular procedure.

(h) The parties shall have the right to file applications for rehearing pursuant to Section 1731 of the Public Utilities Code. If the Commission grants an application for rehearing, the rehearing shall be conducted under the Commission's regular hearing procedure.

(i) Decisions rendered pursuant to the Expedited Complaint Procedure shall not be considered as precedent or binding on the Commission or the courts of this state.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1702.1, Public Utilities Code.

Article 5. Investigations.....

5.1. (Rule 5.1) Investigations

The Commission may at any time institute investigations on its own motion. Orders instituting investigation shall indicate the nature of the matters to be investigated. Investigations directed at specific utilities or regulated entities will be served on them. However, investigations affecting as a class railroads, pipelines, passenger stage corporations, charter-party carriers, or vessels may only be noticed on the Daily Calendar.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 701, 703, 705, 728, 728.5, 729, 730, 3502, 3541, 5102 and 5112, Public Utilities

Code.

5.2. (Rule 5.2) Responses to Investigations

A respondent need not file a response to the investigatory order unless so directed therein.

Any person filing a response to an order instituting investigation shall state in the response any objections to the preliminary scoping memo regarding the need for hearing, issues to be considered, or schedule. Any recommended changes to the proposed schedule shall be consistent with the category of the proceeding, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding). (See Article 7.)

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

Article 6. Rulemaking

6.1. (Rule 6.1) Rulemaking

The Commission may at any time institute rulemaking proceedings on its own motion (a) to adopt, repeal, or amend rules, regulations, and guidelines for a class of public utilities or of other regulated entities; (b) to amend the Commission's Rules of Practice and Procedure; or (c) to modify prior Commission decisions which were adopted by rulemaking.

Rulemaking proceedings shall be noticed on the Daily Calendar. Orders instituting rulemaking shall be served on all respondents and known interested persons.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Commission.

6.2. (Rule 6.2) Comments

Any person filing comments on an order instituting rulemaking shall state any objections to the preliminary scoping memo regarding the category, need for hearing, issues to be considered, or schedule. Any recommended changes to the proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 18 months or less (ratesetting or quasi-legislative proceeding).

All comments which contain factual assertions shall be verified. Unverified factual assertions will be given only the weight of argument.

Note: Authority: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

6.3. (RULE 6.3) PETITION FOR RULEMAKING

(a) Pursuant to this rule, any person may petition the Commission under Public Utilities Code Section 1708.5 to adopt, amend, or repeal a regulation. The proposed regulation must apply to an entire class of entities or activities over which the Commission has jurisdiction and must apply to future conduct.

(b) Form and Content. A petition must concisely state the justification for the requested relief, and if adoption or amendment of a regulation is sought, the petition must include specific proposed wording for that regulation. In addition, a petition must state whether the issues raised in the petition have, to the petitioner's knowledge, ever been litigated before the Commission, and if so, when and how the Commission resolved the issues, including the name and case number of the proceeding (if known). A petition that contains factual assertions must be verified. Unverified factual assertions will be given only the weight of argument. The caption of a petition must contain the following wording: "Petition to adopt, amend, or repeal a regulation pursuant to Pub. Util. Code § 1708.5."

(c) Service and Filing. Petitions must be served upon the Executive Director, Chief Administrative

Law Judge, Director of the appropriate industry division, and Public Advisor. Prior to filing, petitioners must consult with the Public Advisor to identify any additional persons upon whom to serve the petition. If a petition would result in the modification of a prior Commission order or decision, then the petition must also be served on all parties to the proceeding or proceedings in which the decision that would be modified was issued. The assigned Administrative Law Judge may direct the petitioner to serve the petition on additional persons.

(d) Responses and Replies. Responses to a petition must be filed and served on all parties who were served with the petition within 30 days of the date that the petition was served, unless the assigned Administrative Law Judge sets a different date. The petitioner and any other party may reply to responses to the petition. Replies must be filed and served within 10 days of the last day for filing responses, unless the Administrative Law Judge sets a different date.

(e) The requirements of Article 8 regarding communications with decisionmakers and Commissioners' advisors do not apply to petitions for rulemaking.

(f) The Commission will not entertain a petition for rulemaking on an issue that the Commission has acted on or decided not to act on within the preceding 12 months.

Note: Authority cited: Sections 1701 and 1708.5, Public Utilities Code. Reference: Section 1708.5, Public Utilities Code.

Article 7. Categorizing and Scoping Proceedings

7.1. (Rule 7.1) Categorization, Need for Hearing

(a) Applications. By resolution at each Commission business meeting, the Commission shall preliminarily determine, for each proceeding initiated by application filed on or after the Commission's prior business meeting, the category of the proceeding and the need for hearing. The preliminary determination may be held for one Commission business meeting if the time of filing did not permit an informed determination. The preliminary determination is not appealable, but shall be confirmed or changed by assigned Commissioner's ruling pursuant to Rule 7.3, and such ruling as to the category is subject to appeal under Rule 7.6.

(b) Complaints. For each proceeding initiated by complaint, the Chief Administrative Law Judge, in consultation with the President of the Commission, shall determine the category of the proceeding and shall preliminarily determine the need for hearing. These determinations will be stated in the instructions to answer. The determination as to the category is appealable under Rule 7.6.

(c) Investigations. An order instituting investigation shall determine the category of the proceeding, preliminarily determine the need for hearing, and attach a preliminary scoping memo. The order, only as to the category, is appealable under the procedures in Rule 7.6.

(d) Rulemakings. An order instituting rulemaking shall preliminarily determine the category and need for hearing, and shall attach a preliminary scoping memo. The preliminary determination is not appealable, but shall be confirmed or changed by assigned Commissioner's ruling pursuant to Rule 7.3, and such ruling as to the category is subject to appeal under Rule 7.6.

(e) Commission Discretion in Categorization.

(1) When a proceeding may fit more than one category as defined in Rules 1.3(a), (d) and (e), the Commission may determine which category appears most suitable to the proceeding, or may divide the subject matter of the proceeding into different phases or one or more new proceedings.

(2) When a proceeding does not clearly fit into any of the categories as defined in Rules 1.3 (a), (d), and (e), the proceeding will be conducted under the rules applicable to the ratesetting category unless and until the Commission determines that the rules applicable to one of the other categories, or some hybrid of the rules, are best suited to the proceeding.

(3) In exercising its discretion under this rule, the Commission shall so categorize a

proceeding and shall make such other procedural orders as best to enable the Commission to achieve a full, timely, and effective resolution of the substantive issues presented in the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

7.2. (Rule 7.2) Prehearing Conferences

In any proceeding in which it is preliminarily determined that a hearing is needed, the assigned Commissioner shall set a prehearing conference as soon as practicable after the Commission makes the assignment. The ruling setting the prehearing conference may also set a date for filing and serving prehearing conference statements. Such statements may address the schedule, the issues to be considered, and any other matter specified in the ruling setting the prehearing conference.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(b), Public Utilities Code.

7.3. (Rule 7.3) Scoping Memos

(a) At or after the prehearing conference (if one is held), the assigned Commissioner shall issue the scoping memo for the proceeding, which shall determine the schedule (with projected submission date) and issues to be addressed. In an adjudicatory proceeding, the scoping memo shall also designate the presiding officer. In a proceeding initiated by application or order instituting rulemaking, the scoping memo shall also determine the category and need for hearing.

(b) The assigned Commissioner has the discretion not to issue a scoping memo in any proceeding in which it is preliminarily determined that a hearing is not needed and (1) in a proceeding initiated by application, complaint, or order instituting investigation, no timely protest, answer, or response is filed, or (2) in any proceeding initiated by Commission order, no timely request for hearing is filed.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(b), Public Utilities Code.

7.4. (Rule 7.4) Consolidation

Proceedings involving related questions of law or fact may be consolidated.

Note: Authority cited: Section 1701, Public Utilities Code.

7.5. (Rule 7.5) Changes to Preliminary Determinations

If the assigned Commissioner, pursuant to Rule 7.3(a), changes the preliminary determination on categorization or need for hearing, the assigned Commissioner's ruling shall be placed on the Commission's Consent Agenda for approval of that change.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code

7.6. (Rule 7.6) Appeal of Categorization

(a) Any party may file and serve an appeal to the Commission, no later than 10 days after the date of: (1) an assigned Commissioner's ruling on category in a scoping memo pursuant to Rule 7.3(a); (2) the instructions to answer pursuant to Rule 7.1(b); or (3) an order instituting investigation pursuant to Rule 7.1(c). Such appeal shall state why the designated category is wrong as a matter of law or policy. The appeal shall be served on the Commission's General Counsel, the Chief Administrative Law Judge, the President of the Commission, and all persons who were served with the ruling, instructions to answer, or order.

(b) Any party, no later than 15 days after the date of a categorization from which timely appeal has been taken pursuant to subsection (a) of this rule, may file and serve a response to the appeal. The

response shall be served on the appellant and on all persons who were served with the ruling, instructions to answer, or order. The Commission is not obligated to withhold a decision on an appeal to allow time for responses. Replies to responses are not permitted.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(a), Public Utilities Code.

Article 8. Communications with Decisionmakers and Advisors

8.1. (Rule 8.1) Definitions

For purposes of this Article, the following definitions apply:

(a) "Commission staff of record" includes staff from the Division of Ratepayer Advocates assigned to the proceeding, staff from the Consumer Protection and Safety Division assigned to an adjudicatory proceeding or to a ratesetting proceeding initiated by complaint, and any other staff assigned to an adjudicatory proceeding in an advocacy capacity.

"Commission staff of record" does not include the following staff when and to the extent they are acting in an advisory capacity to the Commission with respect to a formal proceeding: (1) staff from any of the industry divisions; or (2) staff from the Consumer Protection and Safety Division in a quasi-legislative proceeding, or in a ratesetting proceeding not initiated by complaint.

(b) "Decisionmaker" means any Commissioner, the Chief Administrative Law Judge, any Assistant Chief Administrative Law Judge, the assigned Administrative Law Judge, or the Law and Motion Administrative Law Judge.

(c) "Ex parte communication" means a written communication (including a communication by letter or electronic medium) or oral communication (including a communication by telephone or in person) that:

- (1) concerns any substantive issue in a formal proceeding, including categorization of a proceeding, or assignment or reassignment of a proceeding to an Administrative Law Judge,
- (2) takes place between an interested person and a decisionmaker, and
- (3) does not occur in a public hearing, workshop, or other public forum established in the proceeding, or on the record of the proceeding.

Communications regarding the schedule, location, or format for hearings, filing dates, identity of parties, and other such nonsubstantive information are procedural inquiries, not ex parte communications.

(d) "Interested person" means any of the following:

- (1) any applicant, protestant, respondent, petitioner, complainant, defendant, interested party who has made a formal appearance, Commission staff of record, or the agents or employees of any of them, including persons receiving consideration to represent any of them;
- (2) any person with a financial interest, as described in Article I (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code, in a matter at issue before the Commission, or such person's agents or employees, including persons receiving consideration to represent such a person; or
- (3) a representative acting on behalf of any formally organized civic, environmental, neighborhood, business, labor, trade, or similar association who intends to influence the decision of a Commission member on a matter before the Commission, even if that association is not a party to the proceeding.

8.2. (Rule 8.2) Ex Parte Requirements

- (a) In any quasi-legislative proceeding, ex parte communications are allowed without restriction or reporting requirement.
- (b) In any adjudicatory proceeding, ex parte communications are prohibited.
- (c) In any ratesetting proceeding, ex parte communications are subject to the reporting requirements set forth in Rule 8.3. In addition, the following restrictions apply:
- (1) All-party meetings: Oral ex parte communications are permitted at any time with a Commissioner provided that the Commissioner involved (i) invites all parties to attend the meeting or sets up a conference call in which all parties may participate, and (ii) gives notice of this meeting or call as soon as possible, but no less than three days before the meeting or call.
 - (2) Individual oral communications: If a decisionmaker grants an ex parte communication meeting or call to any party individually, all other parties shall be granted an individual meeting of a substantially equal period of time with that decisionmaker. The party requesting the initial individual meeting shall notify the other parties that its request has been granted, at least three days before the meeting or call. At the meeting, that party shall produce a certificate of service of this notification on all other parties. If the communication is by telephone, that party shall provide the decisionmaker with the certificate of service before the start of the call. The certificate may be provided by facsimile transmission or electronic mail.
 - (3) Written ex parte communications are permitted at any time provided that the party making the communication serves copies of the communication on all other parties on the same day the communication is sent to a decisionmaker.
 - (4) Ratesetting Deliberative Meetings and Ex Parte Prohibitions:
 - (A) The Commission may prohibit ex parte communications for a period beginning not more than 14 days before the day of the Commission Business Meeting at which the decision in the proceeding is scheduled for Commission action, during which period the Commission may hold a Ratesetting Deliberative Meeting. If the decision is held, the Commission may permit such communications for the first half of the hold period, and may prohibit such communications for the second half of the period, provided that the period of prohibition shall begin not more than 14 days before the day of the Business Meeting to which the decision is held.
 - (B) In proceedings in which a Ratesetting Deliberative Meeting has been scheduled, ex parte communications are prohibited from the day of the Ratesetting Deliberative Meeting at which the decision in the proceeding is scheduled to be discussed through the conclusion of the Business Meeting at which the decision is scheduled for Commission action.
- (d) Unless otherwise directed by the assigned Administrative Law Judge with the approval of the assigned Commissioner, the provisions of subsections (b) and (c) of this rule, and any reporting requirements under Rule 8.3, shall cease to apply, and ex parte communications shall be permitted, in any proceeding in which (1) no timely answer, response, protest, or request for hearing is filed, (2) all such responsive pleadings are withdrawn, or (3) a scoping memo has issued determining that a hearing is not needed in the proceeding.
- (e) Ex parte communications concerning categorization of a given proceeding are permitted, but must be reported pursuant to Rule 8.3.
- (f) Ex parte communications regarding the assignment of a proceeding to a particular Administrative Law Judge, or reassignment of a proceeding to another Administrative Law Judge, are prohibited. For purposes of this rule, "ex parte communications" include communications between an Administrative Law Judge and other decisionmakers about a motion for reassignment of a proceeding assigned to that Administrative Law Judge.

(g) The requirements of this rule, and any reporting requirements under Rule 8.3, shall apply until (1) the date when the Commission serves the decision finally resolving any application for rehearing, or (2) where the period to apply for rehearing has expired and no application for rehearing has been filed.

(h) Upon the filing of a petition for modification, the requirements of this rule, and any reporting requirements under Rule 8.3, that applied to the proceeding in which the decision that would be modified was issued shall apply until and unless (1) no timely response, protest or request for hearing is filed, (2) all such responsive pleadings are withdrawn, or (3) a scoping memo has issued determining that a hearing is not needed in the proceeding or that a different category shall apply.

(i) Where a proceeding is remanded to the Commission by a court or where the Commission re-opens a proceeding, the requirements of this rule and any reporting requirements under Rule 8.3 that previously applied to the proceeding shall apply until and unless a Commission order or a scoping memo has issued determining that a hearing is not needed in the proceeding or that a different category shall apply.

(j) When the Commission determines that there has been a violation of this rule or of Rule 8.3, the Commission may impose penalties and sanctions, or make any other order, as it deems appropriate to ensure the integrity of the record and to protect the public interest.

(k) The Commission shall render its decision based on the evidence of record. Ex parte communications, and any notice filed pursuant to Rule 8.3, are not a part of the record of the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.1(a), 1701.2(b), 1701.3 (c) and 1701.4(b), Public Utilities Code.

8.3. (Rule 8.3) Reporting Ex Parte Communications

(a) Ex parte communications that are subject to these reporting requirements shall be reported by the interested person, regardless of whether the communication was initiated by the interested person. A "Notice of Ex Parte Communication" (Notice) shall be filed with the Commission's San Francisco Docket Office within three working days of the communication. The Notice shall include the following information:

(1) The date, time, and location of the communication, and whether it was oral, written, or a combination;

(2) The identities of each decisionmaker (or Commissioner's personal advisor) involved, the person initiating the communication, and any persons present during such communication;

(3) A description of the interested person's, but not the decisionmaker's (or the Commissioner's personal advisor's), communication and its content, to which description shall be attached a copy of any written, audiovisual, or other material used for or during the communication.

(b) Any party who has consented to e-mail service pursuant to Rule 1.10(d) shall, on the same day that it files the Notice, electronically serve it pursuant to Rule 1.10.

(c) The filing of a Notice will be reported promptly thereafter in the Commission's Daily Calendar.

(d) Parties may obtain a copy of the Notice from the Commission's Central File room or from the filing party, who must provide it to the requesting party without delay.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c)(4)(C)(i)-(iii), Public Utilities Code.

8.4. (Rule 8.4) Ex Parte Requirements Prior to Final Categorization

(a) Applications.

(1) The ex parte requirements applicable to ratesetting proceedings shall apply from the date the application is filed through the date of the Commission's preliminary determination of category pursuant to Rule 7.1(a).

(2) The ex parte requirements applicable to the category preliminarily determined by the Commission pursuant to Rule 7.1(a) shall apply until the date of the assigned Commissioner's scoping memo finalizing the determination of categorization pursuant to Rule 7.3.

(b) Rulemakings. The ex parte requirements applicable to the category preliminarily determined by the Commission pursuant to Rule 7.1(d) shall apply until the date of the assigned Commissioner's ruling on scoping memo finalizing the determination of category pursuant to Rule 7.3.

(c) Complaints. The ex parte requirements applicable to adjudicatory proceedings shall apply until the date of service of the instructions to answer finalizing the determination of category pursuant to Rule 7.1(b).

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c)(4), Public Utilities Code.

8.5 (Rule 8.5) Communications with Advisors

Communications with Commissioners' personal advisors are subject to all of the restrictions on, and reporting requirements applicable to, ex parte communications, except that oral communications in ratesetting proceedings are permitted without the restrictions of Rule 8.2(c)(1) and (2).

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c)(4), Public Utilities Code.

8.6 (Rule 8.6) Requirements in Proceedings Filed Before January 1, 1998

The following requirements apply to proceedings filed before January 1, 1998:

(a) In any investigation or complaint where the order instituting investigation or complaint raises the alleged violation of any provision of law or Commission order or rule, ex parte communications and communications with Commissioners' personal advisors are prohibited after the proceeding has been submitted to the Commission.

(b) Ex parte communications and communications with Commissioners' personal advisors are permitted, and shall not be reported, in rulemakings and in investigations consolidated with rulemakings to the extent that the investigation raises the identical issues raised in the rulemaking.

(c) All other ex parte communications and communications with Commissioners' personal advisors are permitted, and are subject to the reporting requirements of Rule 8.3.

(d) The Commission, or the assigned Administrative Law Judge with the approval of the assigned Commissioner, may issue a ruling tailoring these requirements to the needs of any specific proceeding.

Note: Authority cited: Section 1701, Public Utilities Code.

Article 9. Administrative Law Judges

9.1. (Rule 9.1) Authority

The Administrative Law Judge may administer oaths; issue subpoenas; receive evidence; hold appropriate conferences before or during hearings; rule upon all objections or motions which do not involve final determination of proceedings; receive offers of proof; hear argument; and fix the time for

the filing of briefs. The Administrative Law Judge may take such other action as may be necessary and appropriate to the discharge of his or her duties, consistent with the statutory or other authorities under which the Commission functions and with the rules and policies of the Commission.

Note: Authority cited: Section 1701, Public Utilities Code.

9.2. (RULE 9.2) MOTION FOR REASSIGNMENT ON PEREMPTORY CHALLENGE

(a) A party to a proceeding preliminarily or finally determined to be adjudicatory may file a motion, once only, for automatic reassignment of that proceeding to another Administrative Law Judge in accordance with the provisions of this subsection. The motion shall be filed and served on all parties, and on the Chief Administrative Law Judge and the President of the Commission. The motion shall be supported by declaration under penalty of perjury (or affidavit by an out-of-state person) in substantially the following form:

_____, [declares under penalty of perjury:] That [s]he is [a party] [attorney for a party] to the above-captioned adjudicatory proceeding. That [declarant] believes that [s]he cannot have a [fair] [expeditious] hearing before Administrative Law Judge [to whom the proceeding is assigned]. That declarant [or the party declarant represents] has not filed, pursuant to Rule 9.2, any prior motion for reassignment on peremptory challenge in the proceeding.

Dated _____, at _____, California.

_____ [Signature]

Where there is more than one complainant or similar party, or more than one defendant or similar party, only one peremptory challenge for each side may be made, and the declaration shall include a showing that either (1) no previous peremptory challenge has been filed in the proceeding, or (2) the interests of the moving party are substantially adverse to those of any party who previously moved for reassignment under this rule.

(b) A party to a proceeding preliminarily or finally determined to be ratesetting, or a person filing a concurrent motion to become a party under Rule 1.4(a)(4), may file a motion, once only, for reassignment of that proceeding to another Administrative Law Judge in accordance with the provisions of this subsection; however, no more than two reassignments pursuant to this subsection shall be permitted in the same proceeding. The motion shall be filed and served as provided in subsection (a) of this rule, and shall be supported by a declaration similar in form and substance to that set forth in subsection (a) of this rule.

(c) Any motion filed pursuant to this rule shall be filed no later than 10 days after the date of the notice of the assignment in the Daily Calendar or ruling, if any, on reassignment.

(d) The Chief Administrative Law Judge shall issue either a ruling reassigning the proceeding to another Administrative Law Judge or, in consultation with the President of the Commission, a ruling explaining why the motion is not proper under this rule.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.3. (Rule 9.3) Motion for Reassignment for Prior Service

(a) Irrespective of the limits in Rule 9.2 on number of motions for reassignment, a party may move for reassignment in any adjudicatory or ratesetting proceeding in which the assigned Administrative Law Judge (1) has, within the previous 12 months, served in any capacity in an advocacy position at the Commission or been employed by a regulated public utility, or (2) has been a party or served in a representative capacity in the proceeding.

(b) A motion under this subsection shall be supported by declaration under penalty of perjury (or affidavit by an out-of-state person) setting forth the factual basis for the motion, and shall be filed and served as provided in Rule 9.2(a).

(c) Any motion filed pursuant to this rule shall be filed no later than 10 days after the date of the notice of the assignment.

(d) The Chief Administrative Law Judge shall issue either a ruling reassigning the proceeding to another Administrative Law Judge or, in consultation with the President of the Commission, a ruling explaining the basis for denial of the motion.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.4. (Rule 9.4) Motion for Reassignment for Cause

(a) Irrespective of the limits in Rule 9.2 on number of motions for reassignments, a party may move for reassignment in any proceeding in which the assigned Administrative Law Judge:

(1) has a financial interest in the subject matter in a proceeding or in a party to the proceeding. An Administrative Law Judge shall be deemed to have a financial interest if:

(A) A spouse or minor child living in the Administrative Law Judge's household has a financial interest; or

(B) The Administrative Law Judge or his or her spouse is a fiduciary, executor, trustee, guardian, or administrator who has a financial interest.

(2) has bias, prejudice, or interest in the proceeding.

(b) A motion filed pursuant to this rule shall be supported by a declaration under penalty of perjury (or affidavit by an out-of-state person) setting forth the factual basis for the motion, and shall be filed and served as provided in Rule 9.2(a).

(c) A motion filed pursuant to this rule shall be filed at the earliest practicable opportunity and in any event no later than 10 days after the date the party discovered or should have discovered facts set forth in the declaration filed pursuant to this rule.

(d) Any written response by the assigned Administrative Law Judge to a motion for reassignment for cause shall be filed and served in the proceeding where the motion was filed.

(e) The Chief Administrative Law Judge, in consultation with the President of the Commission, and after considering any response from the assigned Administrative Law Judge, shall issue a ruling addressing the motion.

(f) For the purposes of this rule, "financial interest" means ownership of more than a 1 percent legal or equitable interest in a party, or a legal or equitable interest in a party of a fair market value in excess of one thousand five hundred dollars (\$1,500), or a relationship as director, advisor or other active participant in the affairs of a party, except as follows:

(1) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in those securities held by the organization unless the Administrative Law Judge participates in the management of the fund.

(2) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.

(3) The proprietary interest of a policyholder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.5. (RULE 9.5) CIRCUMSTANCES NOT CONSTITUTING CAUSE

It shall not be cause for reassignment that the Administrative Law Judge:

(a) Is or is not a member of a racial, ethnic, religious, sexual or similar group and the proceeding involves the rights of such a group.

(b) Has experience, technical competence, or specialized knowledge of or has in any capacity expressed a view on a legal, factual or policy issue presented in the proceeding, except as provided in Rule 9.3.

(c) Has, as a representative or public official participated in the drafting of laws or regulations or in the effort to pass or defeat laws or regulations, the meaning, effect, or application of which is in issue in the proceeding unless the Administrative Law Judge believes that the prior involvement was such as to prevent the Administrative Law Judge from exercising unbiased and impartial judgment in the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.6. (RULE 9.6) ADMINISTRATIVE LAW JUDGE'S REQUEST FOR REASSIGNMENT

The Administrative Law Judge shall request reassignment and withdraw from a proceeding in which there are grounds for reassignment for cause unless the parties waive the reassignment pursuant to Rule 9.7.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.7. (Rule 9.7) Waiver

An Administrative Law Judge, after determining that there is basis for his or her reassignment for cause, shall disclose the basis on the record, and may ask the parties whether they wish to waive the reassignment. A waiver of reassignment shall recite the basis for reassignment and shall be effective only when signed by all parties and included in the record. The Administrative Law Judge shall not seek to induce a waiver and shall avoid any effort to discover which representatives or parties favored or opposed a waiver of reassignment.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.8. (Rule 9.8) Prior Rulings

If a proceeding is reassigned, the rulings made up to that time shall not be set aside in the absence of good cause.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

Article 10. Discovery

10.1. (Rule 10.1) Discovery from Parties

Without limitation to the rights of the Commission or its staff under Pub. Util. Code Sections 309.5 and 314, any party may obtain discovery from any other party regarding any matter, not privileged, that is relevant to the subject matter involved in the pending proceeding, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence, unless the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence.

Note: Authority cited: Section 1701, Public Utilities Code.

10.2. (Rule 10.2) Subpoenas

(a) A party may request the issuance of a subpoena to direct the attendance of a non-party witness

or to direct the production of documents or other things under the non-party witness's control. Requests may be made to the Administrative Law Judge assigned to the proceeding. If no Administrative Law Judge is assigned to the proceeding, requests may be made to the Executive Director at the Commission's San Francisco or Los Angeles office. Subpoenas may be issued by the Commission, each Commissioner, the Executive Director, the Assistant Executive Director, or the Administrative Law Judge.

(b) When it is issued, the subpoena will be signed and sealed but will otherwise be blank. All appropriate portions of the blank subpoena must be completed by the party before it is served.

(c) If the subpoena seeks the production of documents or other things, it must be served with a copy of an affidavit showing good cause for the production of the documents or other things described in the subpoena, specify the exact documents or things to be produced, set forth in full detail the materiality of the requested documents or things to the issues raised in the proceeding, and state that the requested documents or things are in the possession or under the control of the witness.

The party requesting production of the documents or other things must retain the original affidavit, and produce it at the request of the Administrative Law Judge, until either all requested documents or other things have been produced or all motions related to the subpoena have been finally resolved.

(d) Service of a subpoena must be made by delivering a copy to the witness personally, giving or offering to the witness at the same time, if demanded by him or her, the fees to which he or she is entitled under Public Utilities Code Section 1791 (see Government Code Section 68093). The service must be made early enough to allow the witness a reasonable time for preparation and travel to the place of attendance. Service may be made by any person.

(e) The provisions of Section 1985.3 of the Code of Civil Procedure apply to subpoenas of a consumer's personal records, as defined by Section 1985.3(a) of the Code of Civil Procedure.

(f) Anyone who disobeys a subpoena issued pursuant to this rule may be found to be in contempt of superior court and punished accordingly, as provided in Public Utilities Code Sections 1792 and 1793. In appropriate circumstances, such disobedience may be found to be a violation of Rule 1.1, punishable as contempt of the Commission under Public Utilities Code Section 2113.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 308, 311, 1791-1794 and 2113, Public Utilities Code; Section 1985, 1985.3, 1986.5 and 1987, Code of Civil Procedure.

10.3. (Rule 10.3) Computer Model Documentation

(a) Any party who sponsors testimony or exhibits which are based in whole, or in part, on a computer model shall provide to any party upon request the following information:

(1) A description of the source of all input data;

(2) The complete set of input data (input file) used in the sponsoring party's computer run(s);

(3) Documentation sufficient for an experienced professional to understand the basic logical processes linking the input data to the output, including but not limited to a manual which includes:

(A) A complete list of variables (input record types), input record formats, and a description of how input files are created and data entered as used in the sponsoring party's computer model(s).

(B) A complete description of how the model operates and its logic. This description may make use of equations, algorithms, flow charts, or other descriptive techniques.

(C) A description of a diagnostics and output report formats as necessary to understand the model's operation.

- (4) A complete set of output files relied on to prepare or support the testimony or exhibits; and
- (5) A description of post-processing requirements of the model output.

(b) If a sponsoring party modifies its computer model or the data base, and sponsors the modified results in the proceeding, such party shall provide the modified model or data to any requesting party who has previously requested access to the original model or data base.

(c) Parties shall maintain copies of computer models and data bases in unmodified form until 90 days after the date of issuance of the Commission's last order or decision in the proceeding, including order or decision on application for rehearing, to the extent that those computer models and data bases continue to provide the basis, in whole or in part, for their showing.

Note: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821, 1822, Public Utilities Code.

10.4. (Rule 10.4) Computer Model and Data Base Access

(a) Any party seeking access to a computer model or data base shall serve on the sponsoring party a written explanation of why it requests access to the information and how its request relates to its interest or position in the proceeding.

(b) Any sponsoring party shall provide timely and reasonable access to, and explanation of, that computer model or data base to all parties complying with subsection (a).

(c) If a party requests access to a data base, the sponsoring party may, at its election, either

- (1) provide such access on its own computer,
- (2) perform any data sorts requested by the requesting party,
- (3) make the data base available to the requesting party to run on the requesting party's own computer, or
- (4) make the data base available through an external computer service.

(d) If a party requests access to a computer model, the sponsoring party may, at its election, either

- (1) make the requested runs on its own computer,
- (2) make the model available to the requesting party to run on that party's own computer, or
- (3) have the requested model run produced for the requesting party by an external computer service.

(e) The sponsoring party is not required to modify its computer model or data base in order to accommodate a request, or to install its model on the requesting party's computer, or to provide detailed training on how to operate the model beyond provision of written documentation. The sponsoring party is not required to provide a remote terminal or other direct physical link to its computer for use by the requesting party. The sponsoring party may take reasonable precautions to preclude access to other software or data not applicable to the specific model or data base being used.

(f) Within five business days of receipt of a request from a requesting party pursuant to this rule, the sponsoring party shall indicate whether the request is clear and complete and shall provide the requesting party a written estimate of the date of completion of the response.

Note: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821, 1822, Public Utilities Code.

Article 11. Law and Motion

11.1. (Rule 11.1) Motions

- (a) A motion is a request for the Commission or the Administrative Law Judge to take a specific action related to an open proceeding before the Commission.
- (b) A motion may be made at any time during the pendency of a proceeding by any party to the proceeding. A motion may also be made by a person who is not a party if it is accompanied by a motion, pursuant to Rule 1.4, to become a party.
- (c) Written motions must be filed and served. The Administrative Law Judge may permit an oral motion to be made during a hearing or conference.
- (d) A motion must concisely state the facts and law supporting the motion and the specific relief or ruling requested.
- (e) Responses to written motions must be filed and served within 15 days of the date that the motion was served, except as otherwise provided in these Rules or unless the Administrative Law Judge sets a different date. Responses to oral motions may be made as permitted by the Administrative Law Judge.
- (f) With the permission of the Administrative Law Judge, the moving party may reply to responses to the motion. Written replies must be filed and served within 10 days of the last day for filing responses under subsection (e), unless the Administrative Law Judge sets a different date. A written reply must state in the opening paragraph that the Administrative Law Judge has authorized its filing and must state the date and the manner in which the authorization was given (i.e., in writing, by telephone conversation, etc.).
- (g) Nothing in this rule prevents the Commission or the Administrative Law Judge from ruling on a motion before responses or replies are filed.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.
Reference: Section 1701, Public Utilities Code.

11.2. (Rule 11.2) Motion to Dismiss

A motion to dismiss a proceeding based on the pleadings (other than a motion based upon a lack of jurisdiction) shall be made no later than five days prior to the first day of hearing.

Note: Authority cited: Section 1701, Public Utilities Code.

11.3. (RULE 11.3) MOTION TO COMPEL OR LIMIT DISCOVERY

- (a) A motion to compel or to limit discovery or access to prepared testimony prior to its admission into evidence is not eligible for resolution unless the parties to the dispute have previously met and conferred in a good faith effort to informally resolve the dispute. The motion shall state facts showing a good faith attempt at an informal resolution of the discovery dispute presented by the motion, and shall attach a proposed ruling that clearly indicates the relief requested.
- (b) Responses to motions to compel or to limit discovery or access to prepared testimony shall be filed and served within 10 days of the date that the motion was served.

Note: Authority cited: Section 1701, Public Utilities Code.

11.4. (RULE 11.4) MOTION TO FILE UNDER SEAL

- (a) Motions to file documents or portions of documents under seal shall attach a proposed ruling that clearly indicates the relief requested.

(b) Responses to motions to file documents, or portions of documents, under seal shall be filed and served within 10 days of the date that the motion was served.

Note: Authority cited: Section 1701, Public Utilities Code.

11.5. (Rule 11.5) Motion to Seal the Evidentiary Record

(a) Motions to seal the evidentiary record or portions thereof may be made at hearing, unless the presiding officer directs otherwise.

(b) If the motion to seal the evidentiary record concerns prepared testimony offered in evidence by written motion pursuant to Rule 13.8(d), it shall be made by concurrent written motion.

Note: Authority cited: Section 1701, Public Utilities Code.

11.6. (Rule 11.6) Motion for Extension of Time

Motions for extension of time limits established in these rules or in a ruling of an Administrative Law Judge or Commissioner may be made orally, by e-mail, or by letter to the Administrative Law Judge. If other parties to the proceeding are affected by the extension, the party requesting the extension must first make a good-faith effort to ask such parties to agree to the extension. The party requesting the extension must report the results of this effort when it makes its request. If the extension is granted, the party requesting the extension shall notify all other parties to the proceeding of the extension, unless the grant of the extension is by oral ruling delivered on the record of the proceeding. No extensions will be granted of time requirements established by statute, unless the statute permits extension or waiver of the requirement.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701 Public Utilities Code.

11.7. (Rule 11.7) Referral to Law and Motion Judge

The assigned Administrative Law Judge may refer discovery disputes and other procedural motions to a designated Law and Motion Administrative Law Judge.

The Law and Motion Administrative Law Judge shall preside over discovery matters referred to him or her by the assigned Administrative Law Judge. The Law and Motion Administrative Law Judge may set law and motion hearings and take such other action as may be necessary and appropriate to the discharge of his or her duties. Rulings under this procedure will be deemed to be rulings in the proceeding in which the motions are filed.

Note: Authority cited: Section 1701, Public Utilities Code.

Article 12. Settlements

12.1. (Rule 12.1) Proposal of Settlement

(a) Parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties; however, settlements in applications must be signed by the applicant and, in complaints, by the complainant and defendant.

The motion shall contain a statement of the factual and legal considerations adequate to advise the Commission of the scope of the settlement and of the grounds on which adoption is urged. Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings.

When a settlement pertains to a proceeding under a Rate Case Plan or other proceeding in which a comparison exhibit would ordinarily be filed, the motion must be supported by a comparison exhibit

indicating the impact of the settlement in relation to the utility's application and, if the participating staff supports the settlement, in relation to the issues staff contested, or would have contested, in a hearing.

(b) Prior to signing any settlement, the settling parties shall convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing settlements in the proceeding. Notice of the date, time, and place shall be served on all parties at least seven (7) days in advance of the conference. Notice of any subsequent settlement conferences may be oral, may occur less than seven days in advance, and may be limited to prior conference attendees and those parties specifically requesting notice. Attendance at any settlement conference shall be limited to the parties and their representatives.

(c) Settlements should ordinarily not include deadlines for Commission approval; however, in the rare case where delay beyond a certain date would invalidate the basis for the proposal, the timing urgency must be clearly stated and fully justified in the motion.

(d) The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

12.2. (Rule 12.2) Comments

Parties may file comments contesting all or part of the settlement within 30 days of the date that the motion for adoption of settlement was served.

Comments must specify the portions of the settlement that the party opposes, the legal basis of its opposition, and the factual issues that it contests. If the contesting party asserts that hearing is required by law, the party shall provide appropriate citation and specify the material contested facts that would require a hearing. Any failure by a party to file comments constitutes waiver by that party of all objections to the settlement, including the right to hearing.

Parties may file reply comments within 15 days after the last day for filing comments.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

12.3. (Rule 12.3) Hearing where Contested

If there are no material contested issues of fact, or if the contested issue is one of law, the Commission may decline to set hearing.

If a hearing is set, it will be scheduled as soon after the close of the comment period as reasonably possible. Discovery will be permitted and should be well underway prior to the close of the comment period. Parties to the settlement must provide one or more witnesses to testify concerning the contested issues. Contesting parties may present evidence and testimony on the contested issues.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

12.4. (Rule 12.4) Rejection of Settlement

The Commission may reject a proposed settlement whenever it determines that the settlement is not in the public interest. Upon rejection of the settlement, the Commission may take various steps, including the following:

(a) Hold hearings on the underlying issues, in which case the parties to the settlement may either withdraw it or offer it as joint testimony,

(b) Allow the parties time to renegotiate the settlement,

(c) Propose alternative terms to the parties to the settlement which are acceptable to the

Commission and allow the parties reasonable time within which to elect to accept such terms or to request other relief.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

12.5. (Rule 12.5) Adoption Binding, Not Precedential

Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

12.6. (Rule 12.6) Confidentiality and Inadmissibility

No discussion, admission, concession or offer to settle, whether oral or written, made during any negotiation on a settlement shall be subject to discovery, or admissible in any evidentiary hearing against any participant who objects to its admission. Participating parties and their representatives shall hold such discussions, admissions, concessions, and offers to settle confidential and shall not disclose them outside the negotiations without the consent of the parties participating in the negotiations.

If a settlement is not adopted by the Commission, the terms of the proposed settlement is also inadmissible unless their admission is agreed to by all parties joining in the proposal.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

12.7. (Rule 12.7) Applicability

Exhibits may be sponsored by two or more parties in a Commission hearing as joint testimony without application of these rules.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

Article 13. Hearings, Evidence, Briefs and Submission

13.1. (Rule 13.1) Notice

(a) The Commission shall give notice of hearing not less than ten days before the date of hearing, unless it finds that public necessity requires hearing at an earlier date.

(b) Whenever any electrical, gas, heat, telephone, water, or sewer system utility files an application to increase any rate, the utility shall give notice of hearing, not less than five nor more than 30 days before the date of hearing, to entities or persons who may be affected thereby, by posting notice in public places and by publishing notice in a newspaper or newspapers of general circulation in the area or areas concerned, of the time, date, and place of hearing. Proof of publication and sample copies of the notices shall be filed within 10 days after publication.

(c) In addition to the notice required by this rule, parties shall provide such notice of hearing as the presiding officer may designate.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Public Utilities Code Section 1704.

13.2. (Rule 13.2) Presiding Officer

When evidence is to be taken in a hearing, the assigned Commissioner or assigned Administrative Law Judge shall preside, as follows:

- (a) In an adjudicatory proceeding, the presiding officer shall be either the assigned Commissioner or the assigned Administrative Law Judge, as designated in the scoping memo.
- (b) In a ratesetting proceeding, the presiding officer shall be either the assigned Commissioner or the assigned Administrative Law Judge, as designated by the assigned Commissioner prior to the first hearing.
- (c) In a quasi-legislative proceeding, the assigned Commissioner shall be the presiding officer.
- (d) Where the assigned Commissioner is designated to preside at hearing pursuant to this rule, and is absent, the assigned Administrative Law Judge shall preside at hearing to the extent permitted by law.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Public Utilities Code Section 1704.

13.3. (Rule 13.3) Assigned Commissioner Presence

- (a) In any ratesetting proceeding, the assigned Commissioner shall be present at the closing argument, if any, and, if designated as presiding officer, shall be present for more than one-half of the hearing days.
- (b) In any ratesetting proceeding, a party may request the presence of the assigned Commissioner at a hearing or specific portion of a hearing. The request may be made in a pleading or a prehearing conference statement. Alternatively, the request may be made by filing and serving on all parties a letter to the assigned Commissioner, with a copy to the assigned Administrative Law Judge. The request should be made as far as possible in advance of the hearing, and should specify (1) the witnesses and/or issues for which the assigned Commissioner's presence is requested, (2) the party's best estimate of the dates when such witnesses and subject matter will be heard, and (3) the reasons why the assigned Commissioner's presence is requested. The assigned Commissioner has sole discretion to grant or deny, in whole or in part, any such request. Any request that is filed five or fewer business days before the date when the subject hearing begins may be rejected as untimely.
- (c) In quasi-legislative proceedings, the assigned Commissioner shall be present for hearing on legislative facts (general facts that help the Commission decide questions of law and policy and discretion), but need not be present for hearing on adjudicative facts (facts that answer questions such as who did what, where, when, how, why, with what motive or intent).
- (d) For purposes of this rule, "present" or "presence" at a hearing or argument means physical attendance in the hearing room, sufficient to familiarize the attending Commissioner with the substance of the evidence, testimony, or argument for which the Commissioner's presence is required or requested.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.2(d), 1701.3(a), and 1701.4(a), Public Utilities Code.

13.4. (Rule 13.4) Order of Procedure

In hearings on complaints, applications and petitions, the complainant, applicant, or petitioner shall open and close. In hearings on investigation proceedings where filed rates or rules which do not result in an increase have been suspended, the respondent shall open and close. In other investigation proceedings, the Commission's staff shall open and close. Intervenors shall follow the parties in whose behalf the intervention is made. The presiding officer, where circumstances warrant, may vary the order of presentation.

Note: Authority cited: Section 1701, Public Utilities Code.

13.5. (Rule 13.5) Limiting Number of Witnesses

To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue.

Note: Authority cited: Section 1701, Public Utilities Code.

13.6. (Rule 13.6) Evidence

(a) Although technical rules of evidence ordinarily need not be applied in hearings before the Commission, substantial rights of the parties shall be preserved.

(b) When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly.

(c) The Commission may review evidentiary rulings in determining the matter on its merits. In extraordinary circumstances, where prompt decision by the Commission is necessary to promote substantial justice, the assigned Commissioner or Administrative Law Judge may refer evidentiary rulings to the Commission for determination.

(d) Formal exceptions to rulings are unnecessary and need not be taken.

(e) An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained.

Note: Authority cited: Section 1701, Public Utilities Code.

13.7. (Rule 13.7) Exhibits

(a) Exhibits shall be legible and either prepared on paper not exceeding 8 ½ x 13 inches in size, or bound or folded to that approximate size. Wherever practicable, the sheets of each exhibit should be numbered, and rate comparisons and other figures shall be set forth in tabular form. Copies of exhibits must be clear and permanently legible. The top sheet of an exhibit must have a blank space two inches high by four inches wide to accommodate the Commission's exhibit stamp.

(b) When exhibits are offered in evidence at hearing, the original plus one copy shall be furnished to the presiding officer and one copy to the reporter and to each party, unless the presiding officer directs otherwise.

(c) If relevant and material matter offered in evidence is embraced in a document containing other matter, parties shall be afforded opportunity to examine the document, and to offer in evidence other portions thereof believed material and relevant.

(d) All documents that are prepared, directly or indirectly, by the party offering them into evidence shall be certified under penalty of perjury by the person preparing or in charge of preparing them as being true and correct, unless the person preparing them is dead or has been declared incompetent, in which case any other person having knowledge of such statements of fact may certify such documents.

Note: Authority cited: Section 1701, Public Utilities Code.

13.8. (Rule 13.8) Prepared Testimony

(a) Prepared testimony may be offered in evidence as an exhibit in lieu of oral testimony under direct examination, provided that copies shall have been served upon all parties prior to hearing and pursuant to the schedule adopted in the proceeding. Prepared testimony shall constitute the entirety of the witness's direct testimony, and shall include any exhibits to be offered in support of the testimony and, in the case of an expert witness, a statement of the witness's qualifications.

(b) Direct testimony in addition to the prepared testimony previously served, other than the correction of minor typographical or wording errors that do not alter the substance of the prepared testimony, will not be accepted into evidence unless the sponsoring party shows good cause why the additional testimony could not have been served with the prepared testimony or should otherwise be admitted. Corrections to minor typographical or wording errors in prepared testimony may be offered in evidence as an exhibit in lieu of oral testimony under direct examination.

(c) Prepared testimony of more than 20 pages must contain a subject index.

(d) Prepared testimony may be offered into evidence by written motion in a proceeding in which it is preliminarily determined that a hearing is not needed and (1) the proceeding was initiated by application, complaint, or order instituting investigation, and no timely protest, answer, or response is filed, or (2) the proceeding was initiated by Commission order, and no timely request for hearing is filed. The prepared testimony shall not be filed with the motion, but shall be concurrently served on all parties. The serving party shall serve two copies of the exhibits on the Administrative Law Judge or, if none is yet assigned, on the Chief Administrative Law Judge. The motion shall include a declaration under penalty of perjury by the person preparing or in charge of preparing the prepared testimony as being true and correct, unless the person preparing them is dead or has been declared incompetent, in which case any other person having knowledge of such statements of fact may certify such documents.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.9. (Rule 13.9) Official Notice of Facts

Official notice may be taken of such matters as may be judicially noticed by the courts of the State of California.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.10. (Rule 13.10) Additional Evidence

The Administrative Law Judge or presiding officer, as applicable, may require the production of further evidence upon any issue. Upon agreement of the parties, the presiding officer may authorize the receipt of specific documentary evidence as a part of the record within a fixed time after the hearing is adjourned, reserving exhibit numbers therefor.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.11. (Rule 13.11) Briefs

The Administrative Law Judge or presiding officer, as applicable, may fix the time for the filing of briefs. Concurrent briefs are preferable. Citations to the transcript in a proceeding must indicate the transcript page number(s) and identify the party and witness sponsoring the cited testimony. A brief of more than 20 pages shall contain a subject index, a table of authorities, and a summary of the briefing party's recommendations following the table of authorities.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

13.12. (Rule 13.12) Oral Argument in Adjudicatory Proceeding

In any adjudicatory proceeding, if an application for rehearing is granted, the parties shall have an opportunity for final oral argument before the presiding officer, if a party so requests within the time and in the manner specified.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2(d).

13.13. (RULE 13.13) ORAL ARGUMENT BEFORE COMMISSION

(a) The Commission may, on its own motion or upon recommendation of the assigned Commissioner or Administrative Law Judge, direct the presentation of oral argument before it.

(b) In ratesetting and quasi-legislative proceedings in which hearings were held, a party has the right to make a final oral argument before the Commission, if the party so requests within the time and in the manner specified in the scoping memo or later ruling in the proceeding. A quorum of the Commission shall be present; however, a Commissioner may be present by teleconference to the extent permitted by the Bagley-Keene Open Meeting Act.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.3(a), 1701.3(d) and 1701.4(c), Public Utilities Code.

13.14. (RULE 13.14) SUBMISSION AND REOPENING OF RECORD

(a) A proceeding shall stand submitted for decision by the Commission after the taking of evidence, the filing of briefs, and the presentation of oral argument as may have been prescribed.

(b) A motion to set aside submission and reopen the record for the taking of additional evidence, or for consideration of a settlement under Article 12, shall specify the facts claimed to constitute grounds in justification thereof, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. It shall contain a brief statement of proposed additional evidence, and explain why such evidence was not previously adduced.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

Article 14. Recommended Decisions

14.1. (RULE 14.1) DEFINITIONS

For purposes of this article, the following definitions shall apply:

(a) "Presiding officer's decision" is a recommended decision that is proposed by the presiding officer in an adjudicatory proceeding in which evidentiary hearings have been conducted.

(b) "Proposed decision" is a recommended decision, other than a presiding officer's decision as defined in subsection (a), that is proposed by (1) the presiding officer or (2) where there is not a presiding officer, the Administrative Law Judge or the assigned Commissioner, in a ratesetting, quasi-legislative, or adjudicatory proceeding.

(c) "Draft resolution" is a recommended resolution that is proposed by a Commission director.

(d) "Alternate" means a substantive revision by a Commissioner to a proposed decision or draft resolution not proposed by that Commissioner which revision either:

(1) materially changes the resolution of a contested issue, or

(2) makes any substantive addition to the findings of fact, conclusions of law, or ordering paragraphs.

"Alternate" also means a recommended decision prepared by the assigned Administrative Law Judge in ratesetting proceeding where the assigned Commissioner is the presiding officer.

A substantive revision to a proposed decision or draft resolution is not an "alternate" if the revision does no more than make changes suggested in prior comments on the proposed decision or draft resolution, or in a prior alternate to the proposed decision or draft resolution.

Note: Authority and reference cited: Section 1701, Public Utilities Code. Reference: Section 311, Public Utilities Code.

14.2. (RULE 14.2) ISSUANCE OF RECOMMENDED DECISION

(a) A proposed decision shall be filed with the Commission and served on all parties without undue delay, not later than 90 days after submission.

(b) A presiding officer's decision shall be filed with the Commission and served on all parties without undue delay, no later than 60 days after submission.

(c) A draft resolution shall not be filed with the Commission, but shall be served as follows, and on

other persons as the Commission deems appropriate:

(1) A draft resolution disposing of an advice letter shall be served on the utility that proposed the advice letter, on anyone who served a protest or response to the advice letter, and any third party whose name and interest in the relief sought appears on the face of the advice letter (as where the advice letter seeks approval of a contract or deviation for the benefit of such third party);

(2) A draft resolution disposing of a request for disclosure of documents in the Commission's possession shall be served on (A) the person who requested the disclosure, (B) any Commission regulatee about which information protected by Public Utilities Code Section 583 would be disclosed if the request were granted, and (C) any person (whether or not a Commission regulatee) who, pursuant to protective order, had submitted information to the Commission, which information would be disclosed if the request were granted;

(3) A draft resolution disposing of one or more requests for motor carrier operating authority shall be served on any person whose request would be denied, in whole or part, and any person protesting a request, regardless of whether the resolution would sustain the protest;

(4) A draft resolution establishing a rule or setting a fee schedule for a class of Commission-regulated entities shall be served on any person providing written comment solicited by Commission staff (e.g., at a workshop or by letter) for purposes of preparing the draft resolution.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311(d), 311(f), 1701.1, 1701.3, 1701.4, Public Utilities Code.

14.3. (Rule 14.3) Comments on Proposed or Alternate Decision

(a) Parties may file comments on the proposed or alternate decision within 20 days of the date of its service on the parties.

(b) Except in general rate cases, major plant addition proceedings, and major generic investigations, comments shall be limited to 15 pages in length. Comments in general rate cases, major plant addition proceedings, and major generic investigations shall not exceed 25 pages. Comments shall include a subject index listing the recommended changes to the proposed or alternate decision, a table of authorities and an appendix setting forth proposed findings of fact and conclusions of law. The subject index, table of authorities, and appendix do not count against the page limit.

(c) Comments shall focus on factual, legal or technical errors in the proposed or alternate decision and in citing such errors shall make specific references to the record. Comments which merely reargue positions taken in briefs will be accorded no weight. Comments proposing specific changes to the proposed or alternate decision shall include supporting findings of fact and conclusions of law.

(d) Replies to comments may be filed within five days after the last day for filing comments and shall be limited to identifying misrepresentations of law, fact or condition of the record contained in the comments of other parties. Replies shall not exceed five pages in length.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311(d), Public Utilities Code.

14.4. (RULE 14.4) APPEAL AND REVIEW OF PRESIDING OFFICER'S DECISION

(a) Any party may file an appeal of the presiding officer's decision within 30 days of the date the decision is served.

(b) Any Commissioner may request review of the presiding officer's decision by filing a request for review within 30 days of the date the decision is served.

(c) Appeals and requests for review shall set forth specifically the grounds on which the appellant or

requestor believes the presiding officer's decision to be unlawful or erroneous. Vague assertions as to the record or the law, without citation, may be accorded little weight.

(d) Any party may file its response no later than 15 days after the date the appeal or request for review was filed. In cases of multiple appeals or requests for review, the response may be to all such filings and may be filed 15 days after the last such appeal or request for review was filed. Replies to responses are not permitted. The Commission is not obligated to withhold a decision on an appeal or request for review to allow time for responses to be filed.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.2(a) and (c), Public Utilities Code.

14.5. (RULE 14.5) COMMENT ON DRAFT OR ALTERNATE RESOLUTION

Any person may comment on a draft or alternate resolution by serving (but not filing) comments on the director of the Commission division that issued the draft resolution by no later than ten days before the Commission meeting when the draft or alternate resolution is first scheduled for consideration (as indicated on the first page of the draft or alternate resolution).

Comments shall be concurrently served on all Commissioners, the Chief Administrative Law Judge, the General Counsel, and either (a) all persons shown on the service list appended to the draft or alternate resolution, if any, or (b) in accordance with the instructions accompanying the notice of the resolution as an agenda item in the Commission's Daily Calendar.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311(e), 311(g), Public Utilities Code.

14.6. (RULE 14.6) REDUCTION OR WAIVER OF REVIEW

(a) In an unforeseen emergency situation, the Commission may reduce or waive the period for public review and comment on proposed decisions, draft resolutions and alternates. "Unforeseen emergency situation" means a matter that requires action or a decision by the Commission more quickly than would be permitted if advance publication were made on the regular meeting agenda. Examples include, but are not limited to:

- (1) Activities that severely impair or threaten to severely impair public health or safety.
- (2) Crippling disasters that severely impair public health or safety.
- (3) Administrative disciplinary matters, including, but not limited to, consideration of proposed decisions and stipulations, and pending litigation, that require immediate attention.
- (3) Consideration of applications for licenses or certificates for which a decision must be made in less than ten days.
- (5) Consideration of proposed legislation that requires immediate attention due to legislative action that may be taken before the next regularly scheduled Commission meeting, or due to time limitations imposed by law.
- (6) Requests for relief based on extraordinary conditions in which time is of the essence.
- (7) Deadlines for Commission action imposed by legislative bodies, courts, other administrative bodies or tribunals, the office of the Governor, or a legislator.
- (8) Unusual matters that cannot be disposed of by normal procedures if the duties of the Commission are to be fulfilled.

A rate increase is not an unforeseen emergency situation.

(b) The Commission may reduce or waive the period for public review and comment on proposed

decisions, draft resolutions and alternates, where all the parties so stipulate.

(c) In the following circumstances, the Commission may reduce or waive the period for public review and comment on draft resolutions and on proposed decisions issued in proceedings in which no hearings were conducted, and may reduce but not waive the period for public review and comment on alternates to them:

- (1) in a matter where temporary injunctive relief is under consideration;
- (2) in an uncontested matter where the decision grants the relief requested;
- (3) for a decision on a request for review of the presiding officer's decision in an adjudicatory proceeding;
- (4) for a decision extending the deadline for resolving adjudicatory proceedings (Public Utilities Code Section 1701.2(d));
- (5) for a decision under the state arbitration provisions of the federal Telecommunications Act of 1996;
- (6) for a decision on a request for compensation pursuant to Public Utilities Code Section 1801 et seq.;
- (7) for a decision authorizing disclosure of documents in the Commission's possession when such disclosure is pursuant to subpoena;
- (8) for a decision under a federal or California statute (such as the California Environmental Quality Act or the Administrative Procedure Act) that both makes comprehensive provision for public review and comment in the decision-making process and sets a deadline from initiation of the proceeding within which the Commission must resolve the proceeding.
- (9) for a decision where the Commission determines, on the motion of a party or on its own motion, that public necessity requires reduction or waiver of the 30-day period for public review and comment. For purposes of this subsection, "public necessity" refers to circumstances in which the public interest in the Commission adopting a decision before expiration of the 30-day review and comment period clearly outweighs the public interest in having the full 30-day period for review and comment. "Public necessity" includes, without limitation, circumstances where failure to adopt a decision before expiration of the 30-day review and comment period would place the Commission or a Commission regulatee in violation of applicable law, or where such failure would cause significant harm to public health or welfare. When acting pursuant to this subsection, the Commission will provide such reduced period for public review and comment as is consistent with the public necessity requiring reduction or waiver.
- (10) for a decision extending the deadline for resolving the issues raised in the scoping memo in a ratesetting or quasi-legislative proceeding.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 306(b), 311(e), 311(g), Public Utilities Code; Section 11125.5, Government Code.

14.7. (RULE 14.7) EXEMPTIONS

(a) No public review or comment is required for (1) a resolution on an advice letter filing or decision on an uncontested matter where the filing or matter pertains solely to one or more water corporations as defined in Public Utilities Code Section 241, (2) an order instituting investigation or rulemaking, (3) a resolution on category or need for hearing under Public Utilities Code Sections 1701.1 through 1701.4, or (4) an order, including a decision on an appeal from the presiding officer's decision in an adjudicatory proceeding, that the Commission is authorized by law to consider in executive session.

(b) Except to the extent that the Commission finds it is required by the public interest in a particular case, this article does not apply to the decision of the assigned Administrative Law Judge in a complaint under the expedited complaint procedure.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.
Reference: Sections 311(f), 1702.1, Public Utilities Code.

Article 15. Commission Decisions

15.1. (Rule 15.1) Commission Meetings

(a) Commission Business Meetings shall be held on a regularly scheduled basis to consider and vote on decisions and orders and to take such other action as the Commission deems appropriate. Commission Business Meetings are open to the public, but the Commission may hold closed sessions as part of a regular or special meeting, as permitted by law.

(b) In a ratesetting proceeding where a hearing was held, the Commission may hold a Ratesetting Deliberative Meeting to consider its decision in closed session.

(c) Notice of the time and place of these meetings will appear in the Commission's Daily Calendar.

(d) No unscheduled meeting to take action will be held unless: (1) the Commission determines by majority vote, at a meeting prior to the emergency meeting or at the beginning of the emergency meeting, that an unforeseen emergency situation, as defined in the Bagley-Keene Open Meeting Act, exists, or (2) wherever otherwise permitted by the Bagley-Keene Open Meeting Act.

(e) If an alternate is mailed less than 30 days before the Commission meeting at which the proposed decision or draft resolution is scheduled to be considered, the items will continue to be listed on the Commission's agenda, but will be held to the extent necessary to comply with Public Utilities Code Section 311(e).

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.
Reference: Sections 306 and 311(e), Public Utilities Code; Sections 11123, 11125.5, 11125.4 and 11126, Government Code.

15.2. (Rule 15.2) Meeting Agenda

(a) At least ten days in advance of the Commission meeting, the Commission will issue an agenda listing the items of business to be transacted or discussed by publishing it on the Commission's Internet website. The agenda is also available for viewing and photocopying (for a fee) at the Process Office.

(b) Members of the public, other than persons who have consented to e-mail service in a proceeding pursuant to Rule 1.10, may place a standing order with the Commission's Management Services Division to subscribe to receive hard copies of the agenda.

(c) A matter not appearing on the agenda of a meeting will not be decided unless:

(1) The Commission determines by majority vote that an unforeseen emergency situation, as defined in the Bagley-Keene Open Meeting Act exists; or

(2) The Commission determines by a two-thirds majority (or, if less than two-thirds of the Commissioners are present, by a unanimous vote of those Commissioners present) that a need to take immediate action exists and that the need for this action came to the Commission's attention after the agenda for the meeting was issued, or

(3) As otherwise permitted by the Bagley-Keene Open Meeting Act.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.
Reference: Sections 306(b) and 311.5, Public Utilities Code; Sections 11125(b), 11125.3, and 11126.3(d),

Government Code.

15.3. (Rule 15.3) Agenda Item Documents

(a) Before each Commission meeting, the Commission will make available to the public all draft orders, proposed and draft decisions and their alternates, draft resolutions and their alternates, and written reports appearing on the agenda, except those documents relating to items the Commission considers during its closed session, by publishing them on the Commission's Internet web site.

(b) Agenda item documents are also available for viewing and photocopying (for a fee) at the Commission's Central Files in San Francisco and at the Commission's Los Angeles and San Diego offices, and may be available in certain of the Commission's field offices. If agenda item documents are not ready when the agenda is issued, they will be available at no charge at 9 a.m. on the day and at the location of the Commission meeting.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311.5, Public Utilities Code; Section 11125.1, Government Code.

15.4. (Rule 15.4) Decision in Ratesetting or Quasi-Legislative Proceeding

The Commission shall vote on its decision in a ratesetting or quasi-legislative proceeding not later than 60 days after issuance of a proposed or draft decision. The Commission may extend the deadline for a reasonable period under extraordinary circumstances. The 60-day deadline shall be extended for 30 days if any alternate decision is proposed. Decisions shall become effective 20 days after issuance, unless otherwise provided therein.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.3(e), 1701.4(d), 1705 and 1731(a), Public Utilities Code.

15.5. (Rule 15.5) Decision in Adjudicatory Proceeding

In an adjudicatory proceeding in which a hearing was held:

(a) The decision of the presiding officer shall become the decision of the Commission if no appeal or request for review is timely filed pursuant to Rule 14.4. The Commission's Daily Calendar shall notice each decision of a presiding officer that has become the decision of the Commission, the proceeding so decided, and the effective date of the decision.

(b) The Commission may meet in closed session to consider the decision of the presiding officer that is under appeal pursuant to Rule 14.4. The vote on the appeal or a request for review shall be in a public meeting and shall be accompanied by an explanation of the Commission's decision, which shall be based on the record developed by the presiding officer. A decision different from that of the presiding officer shall include or be accompanied by a written explanation of each of the changes made to the presiding officer's decision. The decision shall become effective 20 days after issuance, unless otherwise provided therein.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 311(d), 1701.2(a), 1701.2(c) and 1705, Public Utilities Code.

15.6. (Rule 15.6) Service of Decisions and Orders

Decisions and orders shall be served on all parties by the Executive Director's office, unless doing so would be contrary to state or federal law.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311.5, 1701, Public Utilities Code; Section 11104.5, Government Code.

Article 16. Rehearing, Modification and Time to Comply

16.1. (Rule 16.1) Application for Rehearing

(a) Application for rehearing of a Commission order or decision shall be filed within 30 days after the date the Commission mails the order or decision, or within 10 days of mailing in the case of an order relating to (1) security transactions and the transfer or encumbrance of utility property as described in Public Utilities Code Section 1731(b), or (2) the Department of Water Resources as described in Public Utilities Code Section 1731(c). An original plus four exact copies shall be tendered to the Commission for filing.

(b) Filing of an application for rehearing shall not excuse compliance with an order or a decision. An application filed ten or more days before the effective date of an order suspends the order until the application is granted or denied. Absent further Commission order, this suspension will lapse after 60 days. The Commission may extend the suspension period.

(c) Applications for rehearing shall set forth specifically the grounds on which the applicant considers the order or decision of the Commission to be unlawful or erroneous, and must make specific references to the record or law. The purpose of an application for rehearing is to alert the Commission to a legal error, so that the Commission may correct it expeditiously.

(d) A response to an application for rehearing is not necessary. Any response may be filed and served no later than fifteen days after the day the application for rehearing was filed. In instances of multiple applications for rehearing the response may be to all such applications, and may be filed 15 days after the last application for rehearing was filed. An original plus four exact copies shall be tendered to the Commission for filing. The Commission is not obligated to withhold a decision on an application for rehearing to allow time for a response to be filed.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 1731, 1732, 1733 and 1735, Public Utilities Code.

16.2. (Rule 16.2) Parties Eligible to File Applications for Rehearing

(a) For purposes of filing an application for rehearing in a formal proceeding, "parties" include any person who is a party pursuant to Rule 1.4.

(b) For purposes of filing an application for rehearing of a resolution, "parties" include any person described in paragraphs (1) through (4) of Rule 14.2(c) and any person serving written comments on a draft or alternate resolution pursuant to Rule 14.5.

(c) Except as may be specifically authorized by statute, a person may not become a party by filing an application for rehearing.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.

16.3 (Rule 16.3) Oral Argument on Application for Rehearing

(a) If the applicant for rehearing seeks oral argument, it should request it in the application for rehearing. The request for oral argument should explain how oral argument will materially assist the Commission in resolving the application, and demonstrate that the application raises issues of major significance for the Commission because the challenged order or decision:

- (1) adopts new Commission precedent or departs from existing Commission precedent without adequate explanation;
- (2) changes or refines existing Commission precedent;
- (3) presents legal issues of exceptional controversy, complexity, or public importance; and/or
- (4) raises questions of first impression that are likely to have significant precedential impact.

These criteria are not exclusive. The Commission has complete discretion to determine the appropriateness of oral argument in any particular matter. Arguments must be based only on the evidence in the record. Oral argument is not part of the evidentiary record.

(b) Any party responding to an application for rehearing may make its own request, or respond to the rehearing applicant's request, for oral argument; if it does either, the party must comment on why the issues raised meet or do not meet the criteria stated in subsection (a).

(c) The President has the discretion to grant the request for oral argument, if any. At the request of any other Commissioner, the President's determination will be placed on the Commissioner's meeting agenda for consideration by the full Commission.

(d) Oral argument will be scheduled in a manner that will not unduly delay the resolution of the application for rehearing. At least ten days prior to the oral argument, the Commission will serve all parties to the proceeding with a notice of the oral argument, which may set forth the issues to be addressed at the argument, the order of presentation, time limitations, and other appropriate procedural matters. Normally, no more than one hour will be allowed for oral argument in any particular proceeding.

(e) Participation in the oral argument will ordinarily be limited to those parties who have filed or responded to the application for rehearing. Other parties to the proceeding may participate with the permission or at the invitation of the Commission. Requests to participate should be directed to the General Counsel and should be made at least seven days before the date set for oral argument.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.

16.4. (Rule 16.4) Petition for Modification

(a) A petition for modification asks the Commission to make changes to an issued decision. Filing a petition for modification does not preserve the party's appellate rights; an application for rehearing (see Rule 16.1) is the vehicle to request rehearing and preserve a party's appellate rights.

(b) A petition for modification of a Commission decision must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.

(c) A petition for modification must be filed and served on all parties to the proceeding or proceedings in which the decision proposed to be modified was made. If more than one year has elapsed since the effective date of the decision, the Administrative Law Judge may direct the petitioner to serve the petition on other persons.

(d) Except as provided in this subsection, a petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision. If the Commission determines that the late submission has not been justified, it may on that ground issue a summary denial of the petition.

(e) If the petitioner was not a party to the proceeding in which the decision proposed to be modified was issued, the petition must state specifically how the petitioner is affected by the decision and why the petitioner did not participate in the proceeding earlier.

(f) Responses to petitions for modification must be filed within 30 days of the date that the petition was filed. Responses must be served on the petitioner and on all parties who were served with the petition.

(g) With the permission of the Administrative Law Judge, the petitioner may reply to responses to the petition. Replies must be filed and served within 10 days of the last day for filing response, unless the Administrative Law Judge sets a different date. A reply must state in the opening paragraph that the Administrative Law Judge has authorized its filing and must state the date and the manner in which the authorization was given (i.e., in writing, by telephone conversation, etc.).

(h) Unless otherwise ordered by the Commission, the filing of a petition for modification does not stay or excuse compliance with the order of the decision proposed to be modified. The decision

remains in effect until the effective date of any decision modifying the decision.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.
Reference: Section 1708, Public Utilities Code.

16.5. (Rule 16.5) Correction of Obvious Errors

Correction of obvious typographical errors or omissions in Commission decisions may be requested by letter to the Executive Director, with a copy sent at the same time to all parties to the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code.

16.6. (Rule 16.6) Extension of Time to Comply

Requests for extension of time to comply with a Commission decision or order may be made by letter or e-mail to the Executive Director, with a copy served at the same time on all parties to the proceeding and on the Chief Administrative Law Judge. The e-mail, the letter, or a facsimile of the letter, must be received by the Executive Director at least three business days before the existing date for compliance. If the Executive Director grants the extension, the party requesting the extension must promptly inform all parties to the proceeding of the extension

and must state in the opening paragraph of the document that the Executive Director has authorized the extension.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.

Article 17. Compensating Intervenors

17.1. (RULE 17.1) NOTICE OF INTENT TO CLAIM COMPENSATION

(a) A notice of intent to claim compensation may be filed:

(1) in a proceeding in which a prehearing conference is held, any time after the start of the proceeding until 30 days after the prehearing conference.

(2) if it has been preliminarily determined that a hearing is not needed, any time after the start of the proceeding until 30 days after the time for filing responsive pleadings (e.g., protests, responses, answers, or comments). If a prehearing conference is later held, the notice may be filed pursuant to subsection (a)(1).

(3) in a petition for rulemaking, any time after the petition is filed until 30 days after the time for filing responses. If the petitioner intends to request compensation, the petition itself may include a notice of intent. If a prehearing conference is later held, the notice may be filed pursuant to subsection (a)(1).

(4) in a proceeding where the Commission anticipates that the proceeding will take less than 30 days, by any deadline that may be established by the Administrative Law Judge.

(b) An amended notice of intent may be filed within 15 days after the issuance of the scoping memo in the proceeding.

(c) The notice of intent shall identify all issues on which the intervenor intends to participate and seek compensation, and shall separately state the expected budget for participating on each issue. The notice of intent may include a category of general costs not attributable to a particular issue.

(d) The notice of intent shall provide either (1) verification of the intervenor's customer status pursuant to Public Utilities Code Section 1802(b)(1)(A) or (B), or (2) a copy of articles of incorporation or bylaws demonstrating the intervenor's customer status pursuant to Public Utilities Code Section 1802(b)(1)(C). If current articles or bylaws have already been filed with the Commission, the notice of intent need only

make a specific reference to such filings.

(e) The notice of intent shall state the intervenor's economic interest in the proceeding, as that interest relates to the issues on which the intervenor intends to participate.

(f) An intervenor who intends to request compensation for costs of judicial review shall file a supplemental notice of intent within 30 days after the date that the intervenor first appears or files a pleading in the judicial review proceeding. The supplemental notice of intent shall identify the issues upon which the intervenor intends to participate in judicial review, and an itemized estimate of the compensation that the intervenor expects to request by reference to those identified issues. If the intervenor intends to support the Commission's decision on review, the supplemental notice of intent shall include a showing of why the intervenor expects that its participation in judicial review will supplement, complement or contribute to the Commission's defense of its decision.

(g) Responses to notices of intent to claim compensation shall be filed within 15 days of service of the notice.

Note: Authority cited: Sections 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

17.2. (RULE 17.2) ELIGIBILITY IN PHASED PROCEEDINGS

A party found eligible for an award of compensation in one phase of a proceeding remains eligible in later phases, including any rehearing, in the same proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

17.3. (RULE 17.3) REQUEST FOR AWARD

Requests for an award of compensation shall be filed within 60 days of the issuance of the decision that resolves an issue on which the intervenor believes it made a substantial contribution or the decision closing the proceeding. If an application for rehearing challenges a decision on an issue on which the intervenor believes it made a substantial contribution, the request for an award of compensation may be filed within 60 days of the issuance of the decision denying rehearing on that issue, the order or decision that resolves that issue after rehearing, or the decision closing the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

17.4. (RULE 17.4) REQUEST FOR COMPENSATION; REPLY TO RESPONSES

(a) The request for compensation shall identify each issue resolved by the Commission for which the intervenor claims compensation, and shall specify the pages, findings, conclusions and/or ordering paragraphs in the Commission decision which resolve the issue.

(b) The request for compensation shall include time records of hours worked that identify:

- (1) the name of the person performing the task;
- (2) the specific task performed;
- (3) the issue that the task addresses, as identified by the intervenor;
and
- (4) the issue that the task addresses, as identified by the scoping memo, if any.

(c) The request for compensation shall itemize each expense for which compensation is claimed.

(d) The request for compensation may include reasonable costs of participation in the proceeding that were incurred prior to the start of the proceeding.

(e) The request for compensation may include reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs incurred as a result of an application for rehearing.

(f) If the proceeding involved multiple intervenors, the request for compensation shall include a showing that the participation materially supplemented, complemented, or contributed to the presentation of any other party with similar interests, or that the participation did not overlap the presentation of other intervenors.

(g) The party may file a reply to responses to its request for compensation within 15 days after service of the response.

Note: Authority cited: Sections 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

Article 18. Forms

18.1. (Rule 18.1) Forms

The following skeleton forms of applications, complaint, answer, protest, and certificate of service are merely illustrative. The content of a particular document will vary, depending on the subject matter and applicable rules.

1. Application
2. Complaint
3. Answer
4. Certificate of Service

Note: Authority cited: Section 1701, Public Utilities Code, and Section 2, Article XII, California Constitution. Reference: Sections 454, 1702, Public Utilities Code.

No. 1-Application

(See Articles 1 and 2)

Before the Public Utilities Commission of the State of California

Application of JOHN JONES (Jones Rapid Transit) to operate bus service between San Francisco and South San Francisco; to establish fares; and to issue a \$10,000 note.

Application No.

(Commission will
insert number)

APPLICATION

The application of (exact legal name, mailing address and telephone number of each applicant) respectfully shows:

1. That communications in regard to this application are to be addressed to (name, title, and address).
2. (Here, and in succeeding numbered paragraphs, set forth the specific facts required by the applicable rules, together with additional facts deemed material.)

DDM 000168

WHEREFORE, applicant requests an order (here state clearly and concisely the specific authorization sought by applicant).

Dated at _____, California, this _____ day of _____, 20____.

(Signature of applicant)

(Signature, address, telephone number, facsimile transmission number, and e-mail address (if consenting to e-mail service) of attorney, if any)

VERIFICATION*

(See Rule 1.11)

(Where applicant is an individual)

I am the applicant in the above-entitled matter; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.

(Date) (Name of city)

_____(Applicant)

No. 1-Application-Continued

VERIFICATION

(See Rule 1.11)

(Where Applicant is a Corporation)

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.

(Date) (Name of city)

(Signature and Title of Corporate Officer)

(Where applicant is absent from

County of Attorney's Office)

I am the attorney for the applicant herein; said applicant is absent from the County of _____, California, where I have my office, and I make this verification for said applicant for that reason; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.

(Date) (Name of city)

(Attorney for Applicant)

No. 2 - Complaint

(See Articles 1 and 4)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

(B) _)

)

)

)

)

(Fill in Complainant (s) name)

vs.

(C))

)

)

)

)

(Fill in Defendant (s) name)

CASE _

(for Commission use only)

(A) Have you tried to resolve this matter informally with the Commission's Consumer Affairs staff?

/

YES NO

Has staff responded to your complaint?

/

YES NO

Did you appeal to the Consumer Affairs Manager?

/

YES NO

Do you have money on deposit with the Commission?

/ / \$ _____

YES NO AMOUNT

Is your service now disconnected?

/

YES NO

COMPLAINT

(D) The complaint of __

(Insert exact legal name, mailing address and telephone number of each complainant)

respectfully shows that:

(E) 1. Defendant(s)

(Insert full name and address of each defendant)

(F) 2. Explain fully and clearly the details of your complaint. (Attach additional pages if necessary.)

(G) 3. Scoping Memo Information

(a) The proposed category for the Complaint is (check one):

adjudicatory

ratesetting (if the complaint challenges the reasonableness of a rate)

(b) Are hearings needed? YES NO

(c) The issues to be considered are:

(d) The proposed schedule for resolving the complaint within 12 months (if categorized as adjudicatory) or 18 months (if categorized as ratesetting) is as follows:

Prehearing Conference: 30 to 40 days from the date of filing of the Complaint.

Hearing: 50 to 70 days from the date of filing of the Complaint.

DDM 000171

Explain here if you propose a schedule different from the above guidelines.

(H) Wherefore, complainant(s) request(s) an order: State clearly the exact relief desired.

(Attach additional pages if necessary)

(I) OPTIONAL: I/we would like to receive the answer and other filings of the defendant(s) and information and notices from the Commission by electronic mail (e-mail). My/our e-mail address(es) is/are:

_____.

(J) Dated __, California, this __ day of __, 20 __

(city) (date) (month) (year)

-

(Signature of each complainant)

-

-

(Signature, address, telephone number, facsimile transmission number, and, if the representative consents to e-mail service, the e-mail address, of representative, if any)

-
-
-
-
-

VERIFICATION
(For Individual or Partnerships)

I am (one of) the complainant(s) in the above-entitled matter; the statements in the foregoing document are true of my knowledge, except as to matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

(K) Executed on __, at __, California.

(date) (city)

(If more than one complainant, only one need sign) __

(Complainant)

VERIFICATION
(For a Corporation)

I am an officer of the complaining corporation herein, and am authorized to make this verification on its

behalf. The statements in the foregoing document are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

(L) Executed on __, at __, California.

(date) (city)

(Signature and Title of Corporate Officer) __

—

(M) FILE the original complaint plus 6 copies, plus 1 copy for each named defendant, with the Commission.

(N) MAIL TO: California Public Utilities Commission

Attn: Docket Office

505 Van Ness Avenue, Room 2001

San Francisco, CA 94102

No. 3-Answer

(See Article 1 and Rule 4.4)

Before the Public Utilities Commission of the State of California

John A. Jones,

Case No.

Complainant, _____

vs.

(Insert number

Smith Public Utility System, a corporation,

of complaint)

Defendant.

ANSWER

Defendant (exact legal name, mailing address and telephone number of each defendant joining in answer), for answer to the above complaint, respectfully shows:

1. (Here, and in succeeding numbered paragraphs, admit or deny material allegations of the complaint, and set forth any matters constituting a defense.)

WHEREFORE, defendant requests that the complaint be dismissed (or other appropriate request).

Dated at _____, California, this _____ day of _____, 20____.

(Signature of each defendant joining in answer)

(Signature, address, telephone number, facsimile transmission number, and e-mail address (if consenting to e-mail service) of attorney, if any)

VERIFICATION

Use appropriate form of verification as set forth following Form 1, substituting "defendant" for "applicant."

No. 4-Certificate of Service

(See Rule 1.9)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of [title of document, e.g., "Applicant UtilCorp's Motion to Strike" or "Notice of Availability of Application"] on all known parties to [proceeding number, e.g., A.93-01-010] by [here describe manner of service, e.g., mailing a properly addressed copy by first-class mail with postage prepaid, or transmitting an e-mail message with the document attached, etc.] to each party named in the official service list [or appropriate special service list or specific parties required to be served by ruling or order, etc.]. (If more than one means of service is used, identify which parties were served by which means.)

Executed on [date] at [location], California.

[signature]

John Jones

Table of Filing Fees

(See Rule 1.15)

Type of Filing	Type of Utility	Fee	PU Code Reference
Application for Certificate of Public Convenience and Necessity (CPCN)	Passenger stage corporation UNLESS already operating in the immediate vicinity under the Commission's jurisdiction	\$500	§1036(a)
	All others, including street railroads, gas corporations, electric corporations, telegraph corporations, telephone corporations, water corporations, and common carrier vessels	\$75	§§1001, 1007, 1008, 1904(a)
Application to sell, mortgage, Lease, assign, transfer, or encumber a CPCN	Passenger stage corporation	\$300	§1036(b)
	All others, including street railroads, gas corporations, electric corporations, telegraph corporations, telephone corporations, water corporations, and common carrier vessels	\$75	§1904(a)
Application to register	Interstate highway carrier of household goods or passengers	\$5 per vehicle, plus \$25 for carriers exempt from ICC regulation	§3902(a)(3)z Res. TL-18582 Res. TL-18520

	Private carrier of passengers	\$35 initial registration \$30 renewal	§4006
Application for permit	Household goods carrier	\$500	§5136
	Charter-party carrier of passengers	\$500 plus \$15 per tour bus to a maximum of \$6,500	§5373.1(a), (b)
Application for issuance or renewal of Class A certificate	Charter-party carrier of passengers	\$1,500 (new) \$500 (renewal) plus \$15 per tour bus up to a maximum of \$6,500	§§5371.1(b), 5373.1(a)(1)-(2), (b)
Application for issuance or renewal of Class B certificate	Charter-party carrier of passenger	\$500 plus \$15 per tour bus up to a maximum of \$6,500	§§5371.1(b), 5373.1(a)(3), (b)
Application for issuance or renewal of Class C certificate	Charter-party carrier of passengers	\$500 plus \$15 per tour bus to a maximum of \$6,500	§§5371.1(b), 5373.1(a)(4), (b)

Type of Filing	Type of Utility	Fee	PU Code Reference
Application to sell, lease, assign, or otherwise transfer or encumber a certificate	Charter-party carrier of passengers	\$300	§5377.1
Application to transfer permit	Household goods carrier	\$150 or \$25 for transfer after death of permittee and after court approval of distribution of estate, or if no probate or court distribution necessary	§5136

* Where execution occurs outside California, verification must be made in accordance with the law of the state where execution occurs.

Top of Page



California Public
Utilities Commission

CPUC Home

[Word Document](#) [PDF Document](#)

GENERAL ORDER 96-B

[Provisions adopted by Decision (D.) 01-07-026 (July 12, 2001), D.02-01-038 (January 9, 2002), D.05-01-032 (January 13, 2005), D.07-01-024 (January 25, 2007), D.07-09-019 (September 6, 2007), D.08-05-019 (May 15, 2008), Resolution ALJ-221 (August 21, 2008), Resolution W-4749 (March 26, 2009), and D.09-04-005 (April 16, 2009)]

[GENERAL RULES](#)

INDUSTRY SPECIFIC RULES

[ENERGY INDUSTRY RULES](#)

[WATER INDUSTRY RULES](#)

[TELECOMMUNICATIONS INDUSTRY RULES](#)

GENERAL RULES

TABLE OF CONTENTS

Title Page

[1. Overview of the General Order 11](#)

[1.1. Structure; Purpose; Applicability 11](#)

[1.2 Utilities Operating in Different Utility Industries 11](#)

[1.3 Construction; Waiver or Variance 22](#)

[1.4 Amendments 22](#)

[1.5 Computation of Time 22](#)

[2. Code of Ethics 22](#)

[3. Definitions 22](#)

[3.1 Advice Letter 22](#)

[3.2 Daily Calendar; Date of Filing 22](#)

[3.3 Day; Business Day 33](#)

DDM 000176

[3.4 Deviation 33](#)

[3.5 Disposition 33](#)

[3.6 Effective Pending Disposition 33](#)

[3.7 Formal; Informal 33](#)

[3.8 Industry Division 33](#)

[3.9 Information-only Filing 33](#)

[3.10 Person 44](#)

[3.11 Protest 44](#)

[3.12 Reply 44](#)

[3.13 Response 44](#)

[3.14 Service 44](#)

[3.15 Tariffs 44](#)

[3.16 Utility 44](#)

[4. Notice, Access, Filing and Service Procedures Generally 55](#)

[4.1 Commission Policies 55](#)

[4.2 Customer Notices 55](#)

[4.3 Service Lists 55](#)

[4.4 Service by Internet 55](#)

[4.5 Filing Format 66](#)

[4.6 Cover Sheet 66](#)

[4.7 Form and Content 66](#)

[5. Use of Advice Letters 88](#)

[5.1 Matters Appropriate to Advice Letters 88](#)

[5.2 Matters Appropriate to Formal Proceedings 88](#)

[5.3 Withdrawal; Rejection Without Prejudice 99](#)

[6. Process for Handling Information-only Filings 99](#)

[6.1 Filing, Access, Service 99](#)

[6.2 Review 1010](#)

[7. Advice Letter Review and Disposition 1010](#)

[7.1 Filing Advice Letters and Related Documents 1010](#)

[7.2 Serving Advice Letters and Related Documents 1010](#)

[7.3 Effective Date 1111](#)

[7.3.1 Effective Date Provided by Statute or by Commission Order Other Than This General Order 1111](#)

[7.3.2 Later Effective Date Requested by Utility 1111](#)

[7.3.3 Effective Pending Disposition 1111](#)

[7.3.4 Effective Date of Advice Letter Submitted for Industry Division Disposition 1111](#)

[7.3.5 Effective Date of Advice Letter Submitted for Disposition by Resolution 1212](#)

[7.4 Protests and Responses 1212](#)

[7.4.1 Filing of Protest 1212](#)

[7.4.2 Grounds for Protest 1212](#)

[7.4.3 Replies 1313](#)

[7.4.4 Late-Filed Protest or Response 1313](#)

[7.5 Review 1313](#)

[7.5.1 Additional Information; Supplements 1313](#)

[7.5.2 Initial Review Period; Suspension; Status Report 1414](#)

[7.5.3 Advice Letters Effective Pending Disposition 1515](#)

[7.6 Disposition of Advice Letters 1515](#)

[7.6.1 Industry Division Disposition of Advice Letters 1515](#)

[7.6.2 Disposition by Resolution 1616](#)

[7.7 Review; Application for Rehearing of Resolution 1717](#)

[7.7.1 Review of Industry Division Disposition 1717](#)

[7.7.2 Application for Rehearing of Resolution 1717](#)

[7.8 Petition for Modification; Request for Extension 1717](#)

[8. Tariffs 1818](#)

[8.1 Filing, Making Accessible, Revising 1818](#)

[8.1.1. Publishing Tariffs 1818](#)

[8.1.2 Internet Publication 1818](#)

[8.1.3 Other Publication 1919](#)

[8.2 Serving Under Tariffs 1919](#)

[8.2.1 Consistency With Tariffs 1919](#)

[8.2.2 Service Options and Alternatives 1919](#)

[8.2.3 Emergency Service; Service to Government Agencies 1919](#)

[8.3 Notice to Correct Tariffs 2020](#)

[8.4 Tariff Format and Sheet Numbering 2020](#)

[8.4.1 Tariff Sheet Format 2020](#)

[8.4.2 Tariff Sheet Numbering 2121](#)

[8.4.3 Transitional Provisions 2222](#)

[8.5 Tariff Contents 2222](#)

[8.5.1 Title Page 2222](#)

[8.5.2 Table of Contents 2222](#)

[8.5.3 Preliminary Statement and Explanation of Symbols 2323](#)

[8.5.4 Service Area 2323](#)

[8.5.5 Rate Schedules 2424](#)

[8.5.6 List of Contracts and Other Deviations 2424](#)

[8.5.7 Tariff Rules 2424](#)

[8.5.8 Sample Forms 2626](#)

[9.0 Confidential Treatment 2626](#)

[9.1 General Provisions 2626](#)

[9.2 Burden of Establishing Confidentiality 2626](#)

[9.3 Procedure for Establishing Confidentiality 2626](#)

[9.4 Duration of Confidentiality Claim 2828](#)

[9.5 Objection to Confidentiality Claim 2828](#)

[9.6 Disposition of Confidentiality Claim 2828](#)

[ENERGY INDUSTRY RULES](#)[WATER INDUSTRY RULES](#)[TELECOMMUNICATIONS INDUSTRY RULES](#)**1. Overview of the General Order****1.1. Structure; Purpose; Applicability**

This General Order contains General Rules, Energy Industry Rules, Telecommunications Industry Rules, and Water Industry Rules. The General Rules govern advice letters and information-only filings submitted to the Commission by public utilities that are gas, electrical, telephone, water, sewer system, pipeline, or heat corporations, as defined in the Public Utilities Code. The General Rules also govern certain matters submitted to the Commission by certain non-utilities subject to limited regulation by the Commission

The Industry Rules have limited applicability. The Energy Industry Rules apply to gas, electrical, pipeline, and heat corporations and to load-serving entities as defined in Public Utilities Code Section 380. The Telecommunications Industry Rules apply to telephone corporations. The Water Industry Rules apply to water and sewer system corporations. Within their respective industries, the Industry Rules may create rules specific to a particular type of utility or advice letter. Also, for purposes of advice letter review, the Industry Rules will contain three tiers that will distinguish, for the respective Industry Divisions, between those kinds of advice letters subject to disposition under General Rule 7.6.1 (Industry Division disposition) and those subject to disposition under General Rule 7.6.2 (disposition by resolution). The Industry Rules may contain additional tiers as needed for efficient advice letter review or implementation of a statute or Commission order.

The Industry Rules reflect the different needs and conditions within the specified utility industries and segments of those industries, especially as competition develops regarding some services formerly provided by utility monopolies. The respective Industry Rules may differ from each other, and may make distinctions within the covered industry, so long as these differences are consistent with these General Rules. An Industry Rule may differ from the otherwise applicable General Rule to the extent authorized by General Rule or other Commission order.

The provisions of this General Order govern only those informal matters submitted for filing on or after July 1, 2007. However, the Commission at any time may require a utility to revise all or a part of its tariffs to conform with this General Order.

1.2 Utilities Operating in Different Utility Industries

If a utility provides services within two or more of the covered industries (Energy, Telecommunications, Water), the utility shall comply with each of the Industry Rules applicable to the respective services. In addition, if a utility provides two or more types of utility service covered in this General Order (electrical, natural gas, heat, pipeline; telephone; water, sewer system), the utility shall comply with the requirements of General Rules 8 to 8.5.8 by means of separate tariffs for each type of utility service provided.

1.3 Construction; Waiver or Variance

The General Rules and Industry Rules shall be liberally construed to secure just, speedy, and inexpensive handling of informal matters, as set forth in this General Order. The Commission in a specific instance may authorize an exception to the operation of this General Order where appropriate. In a specific instance and for good cause, the Director of the appropriate Industry Division may shorten the protest and reply period under the General Rules.

1.4 Amendments

Each Industry Division's Industry Rules may be amended independently of these General Rules or the Industry

Rules of the other Industry Divisions. Whenever any part of the Industry Rules must be amended to ensure consistency with applicable statutes and Commission orders, the appropriate Industry Division will draft proposed amendments to those rules. The Commission may adopt the amendments by resolution, with such modification as the Commission deems appropriate, following notice and an opportunity to comment on the proposed amendments. All amendments and the complete text of this General Order will be published at the Commission's Internet site.

1.5 Computation of Time

When these rules set a time limit for performance of an act, the time is computed by excluding the first day (i.e., the day of the act or event from which the designated time begins to run) and including the last day. If the last day does not fall on a business day, the time limit is extended to include the first business day thereafter.

2. Code of Ethics

Rule 1.1 ("Code of Ethics") of the Commission's Rules of Practice and Procedure (California Code of Regulations, Title 20, Division 1, Chapter 1) shall apply to all matters governed by these rules.

3. Definitions

The definitions apply to the following terms when used in the General Rules and the Industry Rules. Unless otherwise required by context, use of the singular includes the plural.

3.1 Advice Letter

"Advice letter" means (1) an informal request by a utility for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility's tariffs then in effect, and (2) a compliance filing by a load-serving entity pursuant to Public Utilities Code Section 380.

3.2 Daily Calendar; Date of Filing

"Daily Calendar" means the Daily Calendar published by the Commission and reported on the Internet at www.cpuc.ca.gov. "Date of Filing," when referring to an advice letter, means the day on which the reviewing Industry Division received the advice letter.

3.3 Day; Business Day

"Day" means a calendar day. "Business Day" means a calendar day except for Saturdays, Sundays, and weekdays when the Commission's offices are closed, due either to a State holiday or an unscheduled closure (e.g., an emergency or natural disaster). The Daily Calendar will include a list of State holidays for the current fiscal year and a list for the following fiscal year as soon as such list is available.

3.4 Deviation

"Deviation" means the furnishing by a utility of any service at rates or under conditions other than the rates and conditions contained in its tariffs then in effect.

3.5 Disposition

"Disposition" refers to the grant or rejection (including modification) of the relief requested in an advice letter. The disposition of an advice letter will be by resolution adopted by the Commission, except for (1) an advice letter rejected without prejudice by the reviewing Industry Division pursuant to General Rule 5.3, or (2) an advice letter that is subject to disposition by Industry Division pursuant to General Rule 7.6.1.

3.6 Effective Pending Disposition

"Effective pending disposition" refers to a procedure under General Rules 7.5.3 and 8.2.3 and the appropriate Industry Rules whereby the utility submitting an advice letter implements the actions or tariff changes set forth in the advice letter prior to its disposition pursuant to this General Order. A utility submitting an advice letter under this procedure shall prominently designate the advice letter as "effective pending disposition."

3.7 Formal; Informal

"Formal" refers to a proceeding initiated by an application, complaint, petition, order instituting investigation or rulemaking, or order to show cause. "Informal" refers to an advice letter or other matter submitted to the Commission outside a formal proceeding at the Commission. An informal matter is either an uncontested matter or a matter for which a hearing is not required in order to resolve the contested issues. See also General Rules 5.1 and 5.2.

3.8 Industry Division

"Industry Division" means the Energy, Telecommunications, or Water Division, or their successors.

3.9 Information-only Filing

"Information-only Filing" means an informal report, required by statute or Commission order, that is submitted by a utility to the Commission, but that is not submitted in connection with a request for Commission approval, authorization, or other relief. "Information-only Filing" includes both periodic and occasional reports.

3.10 Person

"Person" refers both to natural and fictitious persons including, without limitation, companies, corporations, partnerships, associations, and sole proprietorships.

3.11 Protest

"Protest" means a document that objects in whole or in part to the relief requested in an advice letter. The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division.

3.12 Reply

"Reply" means a document containing a utility's reaction to any protest or response to the utility's advice letter.

3.13 Response

"Response" means a document, submitted by a third party and served on the utility submitting the advice letter, that unconditionally supports the relief requested in the advice letter and that may provide useful information regarding the advice letter.

3.14 Service

"Service," when referring to sending a document, means mailing or delivering the document, or transmitting it by facsimile transmission, modem, or other electronic means, as described in the Commission's Rules of Practice and Procedure.

Except when referring to sending a document, "service" means the service performed for, or product delivered to, the public or portion of the public, by a utility.

3.15 Tariffs

"Tariffs" refer collectively to the sheets that a utility must file, maintain, and publish as directed by the Commission, and that set forth the terms and conditions of the utility's services to its customers; "tariffs" may also refer to the individual rates, tolls, rentals, charges, classifications, special conditions, and rules of a utility.

3.16 Utility

"Utility" means a public utility that is a gas, electrical, telephone, water, sewer system, pipeline, or heat corporation, as defined in the California Public Utilities Code. The Industry Rules may define "utility" more narrowly.

4. Notice, Access, Filing and Service Procedures Generally

4.1 Commission Policies

The Commission intends that all interested persons have the opportunity, through timely and efficient means, (1) to inspect a utility's tariffs, (2) to receive notice of advice letter and information-only filings, (3) to have access to public records regarding such documents, and (4) to find information on the status of any particular advice letter, including associated supplements, protests, replies, or appeals, and the disposition of the advice letter.

4.2 Customer Notices

Unless no notice or a shorter notice period is authorized by statute or Industry Rule or other Commission order, a utility shall give affected customers at least 30 days' notice before the effective date of an advice letter requesting higher rates or charges, or more restrictive terms or conditions, than those currently in effect. This notice requirement may be satisfied by one or a combination of the following: bill inserts; notices printed on bills; separate notices sent by first-class mail; or electronic mail (e-mail) when a customer has affirmatively consented to receive notice in this manner. Notice by first-class mail is complete when the document is deposited in the mail, and notice by e-mail is complete upon successful transmission. Where authorized by the appropriate Industry Rules, the notice requirement may also be satisfied by notices printed in a newspaper of general circulation.

4.3 Service Lists

Each utility shall maintain at least one advice letter service list, which shall include the postal and e-mail addresses, as appropriate, of all persons on the list. To the extent practical, the utility shall maintain separate lists for different types of advice letters (for example, differentiating between water utility districts, customer classes, or particular services), and shall identify the separate lists at the utility's Internet site, so that persons may request and receive only those advice letters of interest. The utility shall include on the service list any person who requests such inclusion, and may periodically confirm the desire of any currently listed person to remain on the list. On or before the date when the utility files an advice letter, it shall serve the advice letter without charge on all persons listed for that type of advice letter.

4.4 Service by Internet

For purposes of these rules, any person may accept service by Internet. A person indicates acceptance of such service by providing an e-mail address along with a postal address to the utility, Industry Division, or third party serving a document on the person. Notwithstanding such acceptance, the utility, Industry Division, or third party shall make alternative service (including service by first-class mail, personal delivery, or facsimile transmission) immediately whenever the serving party receives notification that service by Internet is unsuccessful.

A utility shall serve its advice letters and related documents by Internet on any person on its advice letter service list who provides an e-mail address. Any such person shall serve that person's advice letter protest and related

documents by Internet on the utility filing the advice letter.

4.5 Filing Format

Rule 1.5 of the Commission's Rules of Practice and Procedure governs the format of advice letter documents, except that the format of tariffs shall be as prescribed in these General Rules and the appropriate Industry Rules.

4.6 Cover Sheet

A utility filing an advice letter shall include with its advice letter a cover sheet, which shall state the date when the utility served the advice letter and filed it with the reviewing Industry Division. The cover sheet shall also be served with the advice letter. The cover sheet shall state that a protest or response to the advice letter must be filed with the reviewing Industry Division within 20 days of the date of the advice letter's filing and served on the same day on the utility. Except as modified by the Industry Division, the cover sheet shall summarize the contents of the advice letter, as follows:

- (1) indicate requested effective date;
- (2) indicate service affected by the advice letter;
- (3) briefly describe change to existing service (where applicable) or other change proposed by the advice letter;
- (4) indicate percent impact of proposed change on current rates or charges for affected service (where applicable);
- (5) cite Commission orders (by decision or resolution number and ordering paragraph) and Public Utilities Code or other statutory provisions (by section) related to the substance of the advice letter, and identify as compliance filing (where applicable);
- (6) refer to the utility's other pending advice letters that relate to the same tariffs or are otherwise affected by the proposed change;
- (7) if the advice letter replaces a withdrawn or rejected advice letter, identify the prior advice letter and the differences between it and the new advice letter;
- (8) indicate whether the utility believes disposition of the advice letter by Commission resolution is necessary or appropriate;
- (9) show contact person, telephone number, and e-mail address for additional information regarding the advice letter; and
- (10) show postal address and e-mail address of the utility and of the reviewing Industry Division for protests regarding the advice letter.

If an advice letter does not include a complete cover sheet, as described above, the reviewing Industry Division may reject the advice letter without prejudice or extend the protest period unless and until the utility files and serves the information that is missing or incomplete.

4.7 Form and Content

A utility shall:

- (1) number the advice letter sequentially, beginning with No. 1 for the first advice letter filed by the utility for each type of service rendered, followed by a letter designation for the type of service if the

Industry Division so requires;

(2) attach the tariff sheets (new or revised) showing the changes that would be made by the advice letter, and list the numbers and titles of the new tariff sheets (if any) and the numbers of tariff sheets proposed to be canceled (if any). If the advice letter proposes to change tariff sheets currently in effect, the proposed changes shall be shown by providing either (i) a redlined version of the tariff sheets, or (ii) the tariff sheets as currently in effect and as proposed with the changes indicated by appropriate symbols along the right-hand margin, using the symbols set forth in the utility's preliminary statement. If the reviewing Industry Division will assign sheet numbers, so indicate. A tariff sheet number may not be used more than once;

(3) state whether any deviations would be created, service withdrawn from any present customer, or more or less restrictive conditions imposed;

(4) if establishing a new non-competitive service, describe the new service and state its impacts (if any) on rates and service to customers not receiving the new non-competitive service, its impacts (if any) on customer privacy and competitive markets, any educational efforts the utility plans in connection with the new service, and any transactions with the utility's affiliates in the provision of the new service;

(5) if seeking approval of a contract or other deviation from tariffed service, attach a copy;

(6) attach analysis and workpapers used to justify the relief sought in the advice letter, or if the analysis and workpapers are voluminous, provide them within two business days upon request;

(7) cite the statute and/or Commission order establishing the notice requirements applicable to the advice letter, and describe how those requirements were satisfied; and

(8) attach the service list to the original advice letter filed with the reviewing Industry Division, or if the list is identical to a list used previously by the utility, cite the number and date of the advice letter or application that is the source of the list.

In addition, if an advice letter requests a change to a Commission resolution addressing a prior advice letter of the utility, the new advice letter shall specify the resolution to which a change is requested, and shall set forth the following information by way of notice:

(1) The advice letter is subject to Public Utilities Code Section 1708, which states in pertinent part that the Commission may, "upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it."

(2) A person wishing to request an evidentiary hearing must file and serve a timely protest to the advice letter. The protestant must expressly request and explain the need for an evidentiary hearing. The explanation must identify material disputed facts and explain why a hearing must be held.

(3) Any right a person may otherwise have to an evidentiary hearing will be waived if that person does not follow the above procedure for requesting one.

Each Industry Division may modify the required contents as appropriate for the needs of that division and may also promulgate recommended or sample cover sheet formats.

If an advice letter omits any applicable contents, as described above, the reviewing Industry Division may reject the advice letter without prejudice or extend the protest period unless and until the utility files and serves the complete advice letter.

5. Use of Advice Letters

5.1 Matters Appropriate to Advice Letters

The advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions. The advice letter process does not provide for an evidentiary hearing; a matter that requires an evidentiary hearing may be considered only in a formal proceeding.

The primary use of the advice letter process is to review a utility's request to change its tariffs in a manner previously authorized by statute or Commission order, to conform the tariffs to the requirements of a statute or Commission order, or to get Commission authorization to deviate from its tariffs. A utility may also request relief by means of an advice letter where the utility:

- (1) has been authorized or required, by statute, by this General Order, or by other Commission order, to seek the requested relief by means of an advice letter; or
- (2) requests modification of a Commission resolution addressing a prior advice letter of the utility. See General Rule 7.2. To request an extension of time to comply with such resolution, see General Rule 7.8.

A utility may seek a rate increase by means of an advice letter only if use of an advice letter for this purpose is authorized by statute or Commission order.

5.2 Matters Appropriate to Formal Proceedings

A utility must file an application, application for rehearing, or petition for modification, as appropriate, in the following circumstances:

- (1) The utility requests modification of a decision issued in a formal proceeding or otherwise seeks relief that the Commission can grant only after holding an evidentiary hearing, or by decision rendered in a formal proceeding;
- (2) The utility seeks Commission approval of a proposed action that the utility has not been authorized, by statute, by this General Order, or by other Commission order, to seek by advice letter; or
- (3) The utility seeks to challenge a Commission resolution addressing an advice letter submitted by the utility.

Except as provided in General Rule 5.1, a utility must file an application to seek approval of a rate increase; a change to its tariffs; or an alteration of any classification, contract, practice, or rule as to result in a new rate.

5.3 Withdrawal; Rejection Without Prejudice

Before disposition of an advice letter, but no later than the date of issuance, for public review and comment, of a draft resolution (if any) that would grant or reject the advice letter, a utility may withdraw its advice letter without prejudice, except that an advice letter that is effective pending disposition may not be withdrawn on or after the effective date. The withdrawal shall bear the same identifying number as the advice letter and shall be submitted in the same manner and served on the same persons as the advice letter.

Whenever the reviewing Industry Division determines that the relief requested or the issues raised by an advice letter require an evidentiary hearing, or otherwise require review in a formal proceeding, the Industry Division will reject the advice letter without prejudice.

The utility may resubmit, as an application or other appropriate formal request for relief, the request contained in an advice letter that it has withdrawn, pursuant to this General Rule, or that is rejected without prejudice on the grounds that the advice letter must be heard or reviewed in a formal proceeding. When an advice letter has been withdrawn voluntarily by the utility, the utility may resubmit the matter as an advice letter so long as the relief requested or issues raised are appropriate to an advice letter.

The reviewing Industry Division will also reject without prejudice an advice letter that violates applicable Industry Rules in the following instances:

- (1) The utility has improperly designated the advice letter as effective pending disposition; or
- (2) The utility has improperly designated the advice letter as subject to Industry Division disposition.

In these instances, the utility may submit a new advice letter with corrections as specified by the Industry Division. However, implementation of an advice letter designated as effective pending disposition, if the advice letter is rejected without prejudice, shall cease immediately upon such rejection, and may not resume unless and until such implementation is duly approved pursuant to this General Order.

6. Process for Handling Information-only Filings

6.1 Filing, Access, Service

Information-only filings shall be submitted to the appropriate Industry Division, and as further provided in the Industry Rules. A table of periodic information-only filings will be maintained at the Commission's Internet site.

Information-only filings are public records, and are open to public inspection, except as provided by statute or Commission order. Any provision the Commission may make, now or in the future, for electronic notice of, and access to, the Commission's public records shall apply to information-only filings. Information-only filings need not be served, except as otherwise required by statute or Commission order.

6.2 Review

Since information-only filings do not seek relief, they are not subject to protest, as provided for applications and advice letters. The reviewing Industry Division may notify the utility of any omission or other defect in a filing, and the utility shall remedy such defect within a reasonable time. A utility that fails to remedy defects or fails to file a required report on time or at all shall be subject to fines and other sanctions.

7. Advice Letter Review and Disposition

7.1 Filing Advice Letters and Related Documents

Advice letters and related documents (e.g., protests, responses, replies, and requests for review) shall be filed with the reviewing Industry Division. An Industry Division may accept the electronic filing of advice letters and related documents when the Division determines that it has the capacity to receive and process advice letters and related documents in this fashion. The Industry Division will report advice letters and related documents, and the date of their receipt, in the Daily Calendar.

The date of filing of an advice letter or related document shall be the date of receipt by the reviewing Industry Division and shall be used for purposes of calculating the 20-day protest period, the 30-day initial review period, the period of suspension under General Rule 7.5.2, or the last day for any filing or other deadline that may be computed from the date of filing under these rules. The reviewing Industry Division may reject without prejudice an advice letter due to defective service or omitted contents. Notwithstanding the Industry Division's acceptance of an advice letter for filing, a defect or omission that becomes apparent during review of the advice letter may require rejection of the advice letter without prejudice if the utility fails, upon request, to promptly cure the defect or omission.

Advice letters, protests, responses, and replies are public records, and are open to public inspection, except as provided under statute or Commission order. Any provision the Commission may make, now or in the future, for electronic notice of, and access to, the Commission's public records shall apply to such documents.

7.2 Serving Advice Letters and Related Documents

On or before the date an advice letter is filed, and unless otherwise directed by Commission order, the utility shall serve the advice letter and cover sheet (1) on the utility's advice letter service list, and (2) on any other third parties as specified by statute or other Commission order. Such service shall be by Internet to the extent required by General Rule 4.4. In addition, the utility shall make paper service of the advice letter on the Division of Ratepayer Advocates by first-class mail or personal delivery. The requirement to serve the Division of Ratepayer Advocates does not apply to a utility that is a sewer system corporation or a Class B, C, or D water corporation. In addition, the Division of Ratepayer Advocates may waive or modify this service requirement to better accommodate small utilities or alternative service methods.

After filing an advice letter, and pending its disposition, the utility shall promptly provide a copy of the advice letter to anyone so requesting. Such provision shall be without charge to anyone who currently receives service from the utility, or to anyone receiving the advice letter by Internet.

The following additional requirements apply to service of any advice letter that requests a change to a Commission resolution. The utility filing such an advice letter shall serve it on anyone who filed a protest or response to the prior advice letter addressed in the resolution, any third party whose name and interest in the relief sought appeared on the face of that prior advice letter (as where the advice letter sought approval of a contract or deviation for the benefit of such third party), and any other persons who had been served with the resolution.

7.3 Effective Date

A utility submitting an advice letter shall include the requested effective date, as further provided in the Industry Rules.

7.3.1 Effective Date Provided by Statute or by Commission Order Other Than This General Order

If the Commission, by Industry Rule or otherwise, has ordered an advice letter to go into effect on a date different from that otherwise provided by these General Rules, the advice letter shall go into effect on the date ordered. If a statute, Industry Rule, or other Commission order specifically authorizes an advice letter to go into effect on a date different from that otherwise provided by these General Rules, the advice letter shall go into effect on any date (as designated by the utility in the advice letter) that is consistent with the authorization.

7.3.2 Later Effective Date Requested by Utility

Unless the Commission has required an advice letter to go into effect on a date different from that otherwise provided by this General Order, a utility may request an effective date later than that otherwise provided by this General Order, and the advice letter shall go into effect on the date requested by the utility.

7.3.3 Effective Pending Disposition

Unless an earlier effective date is authorized, or a later effective date required, under the appropriate Industry Rules, an advice letter properly designated as effective pending disposition may be made effective on the date of filing, or as provided under General Rule 7.3.2 or 8.2.3. A utility whose advice letter would qualify under the appropriate Industry Rules to be effective pending disposition may request instead that the advice letter be effective only upon regulatory approval under this General Order.

If an advice letter is effective pending disposition, all service rendered pursuant to the advice letter before disposition will be subject to a Commission order requiring refunds or such other or additional adjustments as the Commission may require.

7.3.4 Effective Date of Advice Letter Submitted for Industry Division Disposition

Except as provided in General Rules 7.3.1 to 7.3.3, if a utility has properly submitted an advice letter for Industry

Division disposition, the advice letter will become effective as follows:

(1) If the advice letter has not been protested and the reviewing Industry Division has not suspended the advice letter by the end of the initial review period (see General Rule 7.5.2), the advice letter will become effective 30 days after the date of filing.

(2) If the advice letter is protested or suspended, the advice letter will become effective upon written approval by the reviewing Industry Division or (if an issue requires determination by the Commission) upon adoption by the Commission of a resolution approving the advice letter. (See General Rule 7.5.2)

If an advice letter is improperly submitted for Industry Division disposition, the advice letter will be rejected without prejudice, as provided in General Rule 5.3.

7.3.5 Effective Date of Advice Letter Submitted for Disposition by Resolution

Except as provided in General Rules 7.3.1 and 7.3.2, if a utility has submitted an advice letter for disposition by resolution, the advice letter will become effective when the Commission adopts a resolution approving the advice letter, unless the advice letter may properly be approved by the reviewing Industry Division, in which case the advice letter will become effective upon written approval by that Industry Division. An advice letter submitted for disposition by resolution will not become effective merely by virtue of the expiration of the initial review period or any continuation of the initial or later review period.

7.4 Protests and Responses

7.4.1 Filing of Protest

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter. Within 20 days of the date of filing of the advice letter, the protest or response shall be filed with the reviewing Industry Division and served on the same day on the utility. After filing a protest, and pending disposition of the advice letter, the protestant shall promptly provide a copy of the protest to anyone so requesting.

If the protestant believes that the Commission should hold an evidentiary hearing, the protest must expressly request and explain the need for an evidentiary hearing. The explanation must identify material disputed facts and say why a hearing must be held. Any right a protestant may otherwise have to an evidentiary hearing will be waived if the protestant does not follow this procedure for requesting one.

7.4.2 Grounds for Protest

An advice letter may be protested on one or more of the following grounds:

- (1) The utility did not properly serve or give notice of the advice letter;
- (2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
- (3) The analysis, calculations, or data in the advice letter contain material errors or omissions;
- (4) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- (5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
- (6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory, provided that

such a protest may not be made where it would require relitigating a prior order of the Commission.

As illustrated in the following examples, a protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility.

Example 1. Where the Commission has approved a rate change, an advice letter submitting tariff sheets in compliance with the Commission order approving the rate change is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory.

Example 2. Where the Commission does not regulate the rates of a specific type of utility, an advice letter submitting a rate change by a utility of the specified type is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory.

Example 3. Where the Commission has established a rate band within which a utility is free to set rates for a specific type of service, an advice letter submitting a rate change within the band for a service of the specified type is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory.

In all of the above examples, the advice letters may still be protested on other grounds. For example, if the rate change in Example 3 falls outside the rate band or applies to a service other than of the specified type, the advice letter would violate the Commission order approving the rate change and is subject to protest on that ground.

7.4.3 Replies

The utility filing an advice letter shall reply to each protest and may reply to any response. Any such reply shall be filed with the reviewing Industry Division within five business days after the end of the protest period, and shall be served on the same day on each person who filed a protest or response to the advice letter. The protestant may not reply to the utility's reply.

7.4.4 Late-Filed Protest or Response

The reviewing Industry Division may consider a late-filed protest or response. If an Industry Division considers a late-filed protest or response, it will so notify the utility, and the utility shall have five business days from the date of issuance of the notice within which to reply to the late-filed protest or response.

7.5 Review

7.5.1 Additional Information; Supplements

An Industry Division, to assist its review of an advice letter, may request additional information from the utility. The utility shall respond to the request within five business days unless the Industry Division agrees to a later response, and the Industry Division may reject the advice letter if the utility does not respond promptly and fully. If the Industry Division, after considering the additional information, determines that material factual issues remain, the Industry Division will reject the advice letter without prejudice.

A utility may make minor revisions or corrections to its advice letter at any time before the requested effective date by filing a substitute sheet with the reviewing Industry Division. Changes that generally may be made by substitute sheet include: a correction of a typographical or other insubstantial error; a language clarification; or a later effective date.

The utility shall file a supplement or withdraw the advice letter without prejudice in order to make major revisions or corrections. A substitute sheet or supplement shall be filed and served in the same manner and on the same persons as the advice letter, plus any other persons who have filed a protest or response. A supplement shall bear the same identifying number as the advice letter but shall have a letter suffix ("A" for the first supplement, "B" for the second supplement, etc.).

The filing of a supplement, or of additional information at the request of the reviewing Industry Division, does not automatically continue or reopen the protest period or delay the effective date of the advice letter. The reviewing Industry Division, on its own motion or at the request of any person, may issue a notice continuing or reopening the protest period. Any new protest shall be limited to the substance of the supplement or additional information.

7.5.2 Initial Review Period; Suspension; Status Report

The initial review period for an advice letter is the 30 days immediately following the date of filing. No later than the last day of the initial review period, the reviewing Industry Division will notify the utility and any protestants if disposition of the advice letter will not occur within the initial review period. The Industry Division may notify the utility, and any protestant who has provided an e-mail address, by Internet. For any advice letter that may not be deemed approved, suspension is automatic if disposition of the advice letter has not occurred by the end of the initial review period. The reviewing Industry Division, however, will give notice of this suspension.

The Industry Division's notification will suspend the advice letter's effectiveness and will state the reason for the suspension and its expected duration, which will not exceed 120 days from the end of the initial review period unless the utility agrees in writing to a longer suspension period. For any advice letter so suspended, the reviewing Industry Division will proceed promptly with the disposition of the advice letter under General Rule 7.6.1 or 7.6.2, as appropriate. If the reviewing Industry Division determines that a suspended advice letter requires disposition by the Commission, and the Commission's deliberation on the resolution prepared by the Industry Division continues beyond the expiration of the suspension period, the suspension is automatically continued for a further period, and the Industry Division will so notify the utility and protestants, as above. The further period of suspension will run until the Commission acts on the resolution, but will not exceed 180 days. If the further period ends before the Commission rejects or otherwise acts on the advice letter, the advice letter (if subject to Public Utilities Code Section 455) becomes effective by operation of law on the day after the further period ends.

The above procedures regarding initial review and suspension shall also apply to advice letters effective pending disposition, except that the effectiveness of such advice letters is not suspended by extension of Industry Division or Commission review beyond the initial review period.

Each reviewing Industry Division will publish and keep current an advice letter status report at the Commission's Internet site. The report will include the following information for each advice letter for which review is continuing beyond the initial review period: identification of the advice letter by utility and advice letter number; date of suspension or extension; and reason(s) for suspension or extension. The report will be updated, as needed, to reflect new suspensions or extensions and any change of status of an advice letter, including disposition or withdrawal of the advice letter.

7.5.3 Advice Letters Effective Pending Disposition

Where General Rules 7.3.3, 8.2.3, or the Industry Rules authorize a utility to designate an advice letter as effective pending disposition, the Industry Rules may establish additional procedures for the utility to submit revisions or corrections prior to disposition when the appropriate Industry Division, during its review of such an advice letter, discovers a defect in the advice letter or the tariff changes set forth in the advice letter, provided that the defect is not such as to require rejection of the advice letter. Whenever a utility fails to submit a timely or satisfactory revision after notice by the Industry Division, as prescribed in the procedures, the Commission may impose a penalty and/or take such other actions as may be appropriate to protect consumers and ensure compliance with law.

A utility that has implemented the actions or tariff changes set forth in an advice letter effective pending disposition shall immediately stop such implementation, and shall commence such remedial action as may be appropriate (including but not limited to the submission of an advice letter setting forth a remedial plan), if the advice letter is rejected pursuant to General Rule 5.3, 7.6.1, or 7.6.2.

7.6 Disposition of Advice Letters

7.6.1 Industry Division Disposition of Advice Letters

A utility shall designate in the advice letter whether the utility believes the advice letter is subject to Industry Division disposition. The utility's designation is not binding on the reviewing Industry Division.

The Commission intends by this rule to make advice letters subject to Industry Division disposition in all instances where the delegation of such authority to an Industry Division is lawful.

An advice letter is subject to disposition by the reviewing Industry Division whenever such disposition would be a "ministerial" act, as that term is used regarding advice letter review and disposition. (See Decision 02-02-049.) Industry Division disposition is appropriate where statutes or Commission orders have required the action proposed in the advice letter, or have authorized the action with sufficient specificity, that the Industry Division need only determine as a technical matter whether the proposed action is within the scope of what has already been authorized by statutes or Commission orders. In addition, the Industry Division will (1) reject any advice letter where the advice letter or workpapers are clearly erroneous, including without limitation where there are clear inconsistencies with statute or Commission order, and (2) reject without prejudice an advice letter whose disposition would require an evidentiary hearing or otherwise require review in a formal proceeding.

An advice letter will be subject to Industry Division disposition even though its subject matter is technically complex, so long as a technically qualified person could determine objectively whether the proposed action has been authorized by the statutes or Commission orders cited in the advice letter. Whenever such determination requires more than ministerial action, the disposition of the advice letter on the merits will be by Commission resolution, as provided in General Rule 7.6.2.

Notwithstanding a timely protest, the reviewing Industry Division may approve an advice letter that is subject to disposition under this rule and is otherwise proper, if the protest either (1) is not made on proper grounds as set forth in General Rule 7.4.2, (2) may be rejected on a technical basis as discussed in this rule, or (3) is clearly erroneous.

The Industry Division will review each advice letter filed with it, together with any timely protests, responses, and replies. If the Industry Division, in light of such review, concludes that the advice letter is subject to disposition under this rule (including a deemed approval pursuant to the next paragraph), the Industry Division will report its disposition at the Commission's Internet site. If the advice letter is approved, the Industry Division will either (1) notify the utility by e-mail on the Internet, or (2) return to the utility a complete copy of the advice letter with the effective date stamped on each tariff sheet.

An advice letter that is subject to Public Utilities Code Section 455 or that implements a rate increase previously approved by the Commission is deemed approved if, at the end of the initial review period, the Industry Division has not suspended the advice letter (as provided in General Rule 7.5.2). In all cases where there is Industry Division disposition of an advice letter (including "deemed approval"), the Industry Division will issue a written disposition. If the Industry Division rejects an advice letter or grants a protested advice letter, the Industry Division's disposition will state the basis for rejecting the advice letter or the protest. The Industry Division will serve the disposition on the utility and on any person filing a protest or response to the advice letter. Service on the utility, and on any person who is entitled to receive the disposition and has provided an e-mail address, may be by Internet.

If the reviewing Industry Division has suspended or extended the review of an advice letter that the utility properly filed for disposition under this rule, the Industry Division, prior to the expiration of the review period, will either (1) issue its disposition, or (2) prepare for the Commission's consideration and place on a Commission meeting agenda a resolution containing the Industry Division's analysis and recommendation regarding the advice letter. The Commission may adopt the resolution or modify it in whole or in part.

7.6.2 Disposition by Resolution

Except for those circumstances in which, as provided in General Rules 5.3, 7.5.1, or 7.6.1, the reviewing Industry Division may approve or reject an advice letter, the reviewing Industry Division will prepare and place on the Commission's meeting agenda a resolution approving, rejecting, or modifying any advice letter filed with the Industry Division. The resolution will contain the Industry Division's recommended disposition and analysis supporting such disposition. The resolution will also contain an attachment listing all persons served with the resolution, including the utility filing the advice letter, persons protesting or responding to the advice letter, and

any third party whose name and interest in the relief sought appear on the face of the advice letter.

The Commission may adopt the resolution or modify it in whole or in part. After the Commission has acted on a resolution, the resolution will be served on the utility, on any person filing a protest to the advice letter, and on any other party to the resolution. (See Rule 14.5 of the Rules of Practice and Procedure.) The disposition of the advice letter will be reported at the Commission's Internet site. If the advice letter is approved, the Industry Division will either (1) notify the utility by e-mail on the Internet, or (2) return to the utility a complete copy of the advice letter with the effective date stamped on each tariff sheet.

7.7 Review; Application for Rehearing of Resolution

7.7.1 Review of Industry Division Disposition

The utility or a person filing a protest, or any third party whose name and interest in the relief sought appear on the face of the advice letter, may request Commission review of an Industry Division disposition. In exceptional circumstances, a person who has an interest in the advice letter but who did not file a protest may request Commission review. The request must explain the circumstances that entitle the person to make the request (e.g., the person was unable to file a protest or filed a response supporting the advice letter). The request for Commission review shall be filed with the reviewing Industry Division within 10 days after the issuance of the disposition, shall be served on the utility, all persons filing protests or responses, and any third party whose name and interest in the relief sought appear on the face of the advice letter, and shall set forth specifically the grounds on which the requester considers the disposition to be unlawful or erroneous. Upon filing of a timely request for Commission review, the Industry Division will prepare and place on the Commission's meeting agenda a proposed resolution, and will serve it on the requester and all others on whom the request was served. Pending Commission action on the proposed resolution, the advice letter will take effect if it was approved under the Industry Division disposition.

7.7.2 Application for Rehearing of Resolution

Pursuant to Sections 1731 to 1736 of the Public Utilities Code and Rules 16.1 to 16.6 of the Commission's Rules of Practice and Procedure, the utility filing an advice letter, any person filing a protest to the advice letter, and any other person who was a party to the resolution under Rule 14.5 of the Rules of Practice and Procedure may apply for rehearing. The application for rehearing shall set forth specifically the grounds on which the applicant considers the resolution to be unlawful or erroneous.

The application for rehearing shall be filed with the Commission's Docket Office, which will assign a docket number to the application. On the same day that it is filed, the application for rehearing shall be served on the reviewing Industry Division and on the same persons who are required to be served with the resolution under General Rule 7.7.1.

7.8 Petition for Modification; Request for Extension

A Commission resolution issued under these rules is subject to petition for modification to the same extent and under the same procedures as provided, with respect to Commission decisions, by Rule 16.4 of the Commission's Rules of Practice and Procedure, except that the procedure for filing and serving such a petition is that provided under General Rule 7.7.2 above for filing and serving an application for rehearing.

For an extension of time to comply with a Commission resolution addressing an advice letter, the utility that filed the advice letter shall send a written request to the Executive Director, with copies of the request sent concurrently to the appropriate Industry Division and to all persons on whom the resolution was served. The request, or facsimile of the request, must be received by the Executive Director at least three business days before the date of compliance set in the resolution. If the extension is granted, the utility shall promptly inform all persons on whom the resolution was served of the new date for compliance.

8. Tariffs

8.1 Filing, Making Accessible, Revising

At all times, and as further provided in the Industry Rules, each utility shall comply with the following requirements regarding its tariffs then in effect: (1) submit them to the appropriate Industry Division; (2) compile, publish, and make them accessible for public copying and inspection in accordance with General Rules 8.1.1 to 8.1.3; and (3) promptly submit such revisions as are necessary to conform the utility's tariffs to statute or Commission order. These requirements shall apply except where and to the extent that, by statute or Commission order, compliance is expressly excused for the specific utility or type of utility, or for specific services offered by the utility or type of utility. If a customer or member of the public requests a map of a utility's service area that is not on the utility's web site, the utility may charge the actual cost of producing the map; and the utility shall estimate the cost when the order for the map is taken.

8.1.1. PUBLISHING TARIFFS

These tariff publication requirements apply to any utility that serves California customers under tariffs. A utility shall compile and publish the tariffs under which it provides services to California customers. The purpose of compiling and publishing tariffs is to enable members of the public to inspect and get copies of tariffs (including both currently effective and no longer effective tariffs) that may be of interest to them. A utility may not require anyone wanting to inspect or copy a tariff to disclose the nature of that person's interest in the tariff.

8.1.2 INTERNET PUBLICATION

The Commission strongly encourages all utilities, and requires certain utilities as described below, to publish and keep up-to-date their respective tariffs, as currently in effect, at sites on the Internet freely accessible to the public.

A utility that serves California customers under tariffs, and whose gross intrastate revenues, as defined in Public Utilities Code Section 435(c) and reported to the Commission for purposes of the Utilities Reimbursement Account, exceed \$10 million, shall publish, and shall thereafter keep up-to-date, its currently effective California tariffs at a site on the Internet. The Internet site shall be accessible, and the tariffs shall be downloadable, at no charge to the public. At all times, the utility shall identify at the site any tariffs that would change as the result of Commission approval of modifications the utility has proposed in a pending application or advice letter. The utility shall update the site within five business days of the effective date of any such approval. The utility shall also provide instructions at the site for getting copies of such pending application or advice letter, and of no longer effective tariffs. If it is difficult to publish at the site the maps or forms in the utility's tariffs, the utility shall provide a means of downloading the maps or forms, or shall provide instructions for getting copies in printed format.

A utility whose gross intrastate revenues, as last reported to the Commission, exceed \$10 million, shall comply with this Internet publication requirement no later than January 1, 2002. Any other utility whose gross intrastate revenues, as reported in the utility's annual report to the Commission after January 1, 2002, exceed \$10 million, shall comply with this Internet publication requirement no later than 180 days after the date of the annual report.

8.1.3 OTHER PUBLICATION

A utility that serves California customers under tariffs shall provide a telephone number at which a caller may (1) ask questions regarding the utility's tariffs, (2) order copies of the tariffs, and (3) find out times and places at which the caller may inspect or copy the tariffs. If the utility does not publish its tariffs on the Internet, it shall provide free copies to a current customer, and may charge not more than 20 cents per page to any other requester. The utility shall include this telephone number with any bill for a tariffed service. The telephone number shall be toll-free to customers within the utility's service area.

A utility that serves California customers under tariffs shall make its tariffs (including its no longer effective tariffs) available for public inspection or copying at reasonable times and place(s) within its California service area. The reasonableness of the times and place(s) at which tariffs are available will depend on whether the utility publishes its tariffs on the Internet.

8.2 Serving Under Tariffs

8.2.1 CONSISTENCY WITH TARIFFS

Except for nontariffed or detariffed service, or a deviation (whether by contract or otherwise), authorized by statute or Commission order, a utility shall serve its California customers only at rates and under conditions contained in its tariffs then in effect. Any ambiguity in a tariff provision shall be construed in the way most favorable to the customer, and any representation made by a utility, in advertising or otherwise, with respect to a tariffed service shall be consistent with the terms and conditions of the applicable tariff(s).

8.2.2 SERVICE OPTIONS AND ALTERNATIVES

If a utility provides optional features in conjunction with a particular service, the utility's tariffs shall identify the optional features as such, and shall describe the means by which a customer elects or rejects such features. If a utility provides alternative means of obtaining a particular service, or its functional equivalent, or a choice between different rate plans, the utility's tariffs shall disclose the alternatives available to a customer, and shall describe how the customer selects an alternative.

8.2.3 EMERGENCY SERVICE; SERVICE TO GOVERNMENT AGENCIES

Under emergency conditions, such as war, terrorist attack, and natural disasters, a utility that is a telephone corporation as defined in the Public Utilities Code may provide service to a government agency or to the public for free, or at reduced rates and charges, or under terms and conditions otherwise deviating from its tariffs then in effect. The utility may begin such service without prior Commission approval, but the utility shall promptly submit an advice letter to the Telecommunications Division to notify the Commission of the utility's provision of emergency service and of the rates, charges, terms, and conditions under which the service is provided. The advice letter may be effective pending disposition, and shall be subject to disposition under General Rule 7.6.1. The Commission may determine, as appropriate, the reasonableness of such service.

At all times, a utility other than a telephone corporation may provide service (other than resale service) to a government agency for free, or at reduced rates and charges, or under terms and conditions otherwise deviating from its tariffs then in effect. The utility may begin such service without prior Commission approval, but the utility shall promptly submit an advice letter to the appropriate Industry Division to notify the Commission of the utility's provision of such service and of the rates, charges, terms and conditions under which the service is provided. Although the advice letter may be effective pending disposition under General Rule 7.5.3, the Commission may determine, in an appropriate proceeding, the reasonableness of such service.

For purposes of this General Rule 8.2.3, "government agency" means the United States and its departments, Indian tribes recognized by the United States or the State of California, the State of California and its political subdivisions and municipal corporations, including the departments thereof, and public fairs and celebrations.

8.3 Notice to Correct Tariffs

For any tariffs in effect (other than tariffs effective pending disposition), an Industry Division, on the complaint of a utility's customer, the Consumer Protection and Safety Division (or its successor), or the Division of Ratepayer Advocates (or its successor), or on the Industry Division's own motion, may issue a notice directing the utility to correct tariffs that the Industry Division believes may violate a statute or Commission order. Such notice to correct will identify the tariffs believed to be in violation, and will explain the basis for the Industry Division's belief.

Within 10 business days of the issuance of the notice to correct, the utility shall submit to the Industry Division either (1) an advice letter or substitute sheet letter, if appropriate, proposing corrective action, or (2) an answer explaining why the utility believes the tariffs in question comply with the specified statute or Commission order.

If the utility responds to the notice to correct by submitting an answer, the Industry Division shall either (1) rescind the notice to correct, or (2) affirm the notice to correct, with an explanation of why the Industry Division disagrees with the utility's answer. If the Industry Division affirms the notice to correct, and the Commission ultimately concludes that the tariffs violate statute or Commission orders as alleged in the notice, service rendered pursuant to the tariffs, at least from the date of issuance of the notice, may be subject to any subsequent Commission order requiring refunds, together with such other or additional adjustments as may be necessary or appropriate, as in the case of service rendered pursuant to an advice letter effective pending disposition.

8.4 Tariff Format and Sheet Numbering

8.4.1 Tariff Sheet Format

Tariff sheets shall be 8 inches wide by 11 inches long and of paper stock not less than 16-lb. bond or of equal durability. Tariff sheets shall be printed, typewritten, or otherwise prepared to provide a durable record. Type size shall be 10 point or larger. Except as provided in the Industry Rules, tariff sheets shall not contain handwritten text,

marks, or alterations, and any such handwritten matter shall have no effect. Only one side of a sheet shall be used, and each sheet shall have margins at top and bottom of 1-1/8 inches and a left margin of at least 1-1/8 inches. The Industry Rules may contain additional format requirements, including rules regarding maintenance of tariffs in electronic media, and may provide illustrative exhibits.

Header. On each sheet, the utility shall provide:

- (1) On the left - The name, address, and Commission-assigned identifying "U" number of the utility.
- (2) On the right - Cal. P.U.C. Schedule and Sheet No., with designation as an original or revised sheet (these spaces may be left blank if the appropriate Industry Rules so provide), together with the Cal. P.U.C. numbers of the sheet being cancelled, if any. If a utility has a single rate schedule, omit the schedule number and only show the sheet number.

Footer. On each sheet, the utility shall provide:

- (1) On the left - Advice Letter No. - the number of the advice letter that is requesting approval of the tariff sheet. Decision No. - the Commission's decision number if the sheet is filed in accordance with a decision; otherwise this space is left blank.
- (2) Center - Name and title of an individual authorized by the utility to legally obligate it.
- (3) On the right - Date Filed, Effective, and Resolution No. - The date filed and the effective date shall be completed by the appropriate Industry Division; also, the resolution number approving Tier 3 advice letters shall be followed by blank spaces to be filled in by the appropriate Industry Division.

When a rate schedule or tariff rule is carried forward from one tariff sheet to another, the bottom and top of the appropriate sheets shall be marked "Continued."

8.4.2 Tariff Sheet Numbering

Tariff sheet numbering shall start with 1 for the first sheet in a rate schedule, and the following sheets shall be numbered consecutively in the order in which they are to appear in the schedule. Alternatively, a utility may number its tariff sheets, other than a check sheet, to reflect the section number of the tariff as well as the sheet (e.g., sheets in Section 1 would be numbered 1-1, 1-2, and so on). A utility may not mix the two numbering systems in its tariffs. An original sheet shall be designated as such, and a revised sheet shall be designated by the revision number (e.g., "1st Revised Sheet 1, Cancels Original Sheet 1").

A tariff sheet number may not be used more than once, regardless of whether the tariff sheet to which the number is assigned ever becomes effective. Thus, if a utility modifies a tariff sheet (for example, "1st Revised Sheet 1, Cancels Original Sheet 1") before disposition of the advice letter by which the utility submitted the tariff sheet, the modified tariff sheet must bear a new number (in the example, "2nd Revised Sheet 1, Cancels Original Sheet 1") consistent with this General Rule.

A sheet to be inserted between existing effective sheets shall be designated as an original sheet and shall bear the number of the immediately preceding sheet followed by an alpha or numeric suffix. For example, to insert two new sheets between sheets 44 and 45, the first inserted sheet shall be designated as Original Sheet 44A or 44.1, and the second inserted sheet shall be designated as Original Sheet 44B or 44.2. A utility may not use both kinds of suffix in its tariffs.

Similarly, if the need arises to insert new sheets between Original Sheets 44.1 and 44.2, the first new inserted sheet shall be designated as Original Sheet 44.1.1. If a utility uses numeric suffixes (the preferred system), the utility may use zeros to clarify the sequence of the sheets; thus, the numbering in both of the following examples is acceptable:

44.1, 44.2, . . . 44.9, 44.10, 44.11 and so on;

44.01, 44.02, . . . 44.09, 44.10, 44.11 and so on.

When using numeric suffixes, as illustrated in both examples, the next sheet in sequence after tariff sheet 44.1 (or 44.01) is tariff sheet 44.2 (or tariff sheet 44.02), not tariff sheet 44.11.

8.4.3 Transitional Provisions

By advice letter filed with the appropriate Industry Division within 90 days of the effective date of these General Rules, each utility shall specify whether it elects to (a) continue the sheet numbering system already utilized by the utility (including in its advice letter a complete explanation of the existing sheet numbering system), or (b) conform its sheet numbering system to the requirements of General Rule 8.4.2. A new utility preparing tariffs for the first time shall conform its sheet numbering system to the requirements of General Rule 8.4.2

In the event a utility elects to continue its existing sheet numbering system, the sheet numbering must remain in compliance with the sheet numbering specifications set forth in the last effective version of General Order 96-A. The utility remains subject to notices to correct tariffs under the provisions of General Rule 8.3 in the event its sheet numbering system does not satisfy the specifications of General Order 96-A or does not otherwise conform to a statute or Commission order. Additionally, the utility shall maintain its historic tariff record so that it may provide, upon written request and within a reasonable time, the text for any tariff (or portion thereof) no longer in effect.

In the event a utility elects to conform its sheet numbering system to the requirements of General Rule 8.4.2, the appropriate Industry Division will establish a compliance schedule for the utility. The utility shall proceed to renumber its tariff sheets by compliance letter submitted in accordance with the applicable schedule.

8.5 Tariff Contents

Each utility's tariffs shall include the following contents, arranged in the sequence set forth in General Rules 8.5.1 to 8.5.8 below. The Industry Rules may require additional contents, as appropriate.

8.5.1 TITLE PAGE

The cover page of each utility's tariffs shall be a title page showing the utility's common business name (and any other fictitious business names), the name and Commission-assigned identifying "U" number shown on the utility's Certificate of Public Convenience and Necessity, mailing address, and types of utility service provided and territory served. If the utility's tariffs are in multiple volumes, each volume shall contain a title page with the above information and a unique identifier for that volume.

8.5.2 TABLE OF CONTENTS

At the beginning of the tariffs, a table of contents shall list all tariff subject headings and page numbers of currently effective tariff sheets in the order in which the tariff sheets appear in the utility's compilation of its tariffs. Unless the tariff is updated continuously and reliably by an automated system, each rate schedule and each volume of tariffs shall include a check sheet, which shall show the currently effective tariff sheets, by page and revision number, within the schedule or volume. The Industry Rules may require additional or alternative methods for listing currently effective tariff sheets.

8.5.3 PRELIMINARY STATEMENT AND EXPLANATION OF SYMBOLS

The preliminary statement shall describe or explain: the territory served; the types and classes of service rendered; the general conditions under which services are rendered; the memorandum accounts (if any), balancing accounts, and adjustment clauses that might affect the utility's rates; and other tariff provisions that do not appear in the tariff rules or rate schedules. The preliminary statement shall explain the symbols used to identify tariff changes (see Public Utilities Code Section 491) as follows:

(C) To signify changed listing, rule, or condition which may affect a rate, charge, term, or condition;

(D) To signify discontinued material, including a listing, rate, charge, rule, or condition;

- (I) To signify a rate or charge increase;
- (L) To signify material relocated to another part of tariff schedules with no change in text;
- (N) To signify new material including a listing, rate, charge, rule, or condition;
- (P) To signify material subject to change under a pending application or advice letter;
- (R) To signify a rate or charge reduction; and
- (T) To signify textual change that does not affect a rate, charge, term, or condition.

Whenever the "P" designation is no longer valid, the utility shall remove the "P" designation by filing a substitute sheet.

8.5.4 SERVICE AREA

A utility authorized to serve the entire state shall include in its tariffs a statement of that fact. A utility authorized to serve part of the state shall include in its tariffs:

- (1) A map or maps showing the boundaries of the utility's service area and the location of the service area in relation to nearby cities, highways, or other reasonable reference points; and
- (2) A verbal description of the utility's service area using legal description, zip codes, Geographical Information System data, and/or other reasonable means for precisely specifying the boundaries of the service area.

The map provided pursuant to (1) of this rule may also satisfy the requirements of (2) if the map is of such scale and detail in relation to the service area boundaries as to enable clear and unambiguous determination of the boundaries without resort to verbal description.

The service area map or maps and verbal description shall be kept current and shall be appropriate in scale and detail to enable determination of whether specific real property is within the utility's service area. The Industry Rules may contain additional requirements regarding maps and verbal descriptions, and the reviewing Industry Division may require revisions to the maps, or further specification of the boundaries, in order to eliminate ambiguity regarding the utility's service area.

The respective Industry Divisions will establish compliance schedules for those utilities that, as of June 30, 2007, do not comply with the requirements of this General Rule to maintain service area maps on their Internet sites.

8.5.5 RATE SCHEDULES

Each utility's tariffs shall set forth all of its rate schedules, including for each schedule the schedule number or other designation, the schedule title (e.g., general, residential, "life-line," low-income), the requirements to obtain service, the rates and charges (in tables if possible), and any special conditions, limitations, qualifications, or restrictions specific to the service or rates under the schedule. Amounts subject to refund, contingent charges, and offset surcharges are examples of such special conditions.

8.5.6 LIST OF CONTRACTS AND OTHER DEVIATIONS

Except and to the extent excused by statute or Industry Rule or other Commission order, each utility shall compile and publish in its tariffs a list of all contracts and other deviations under which the utility provides service at rates or under conditions other than those contained in its tariffs then in effect. For each such contract or other deviation, the list shall state: the name and location of the customer; the type or class of service; dates of execution and expiration; the date and number of the Commission order authorizing the contract or other deviation; and the utility's most comparable rate schedule, together with a summary of how the contract or other

deviation differs from that schedule.

If a utility has no such contract or other deviation then in effect, a statement of this fact shall be provided instead of this list.

8.5.7 TARIFF RULES

Each utility's tariffs shall separately state those rules regarding its rates, charges, and services that are not fully set forth in its rate schedules. These tariff rules shall be stated in clear and readily understandable English. Each such tariff rule shall have a number, a descriptive title, and its own sheet or series of sheets. The following subjects, and other subjects as appropriate, shall be covered by tariff rule:

- (1) *Definitions* - Clear and concise definitions of the principal terms used in the tariffs.
- (2) *Description of Service* - Description of types of service rendered and standards of service maintained.
- (3) *Application for Service* - procedure to obtain service.
- (4) *Contracts* - When a contract will be required for service.
- (5) *Special Information Required on Forms* - Notices to customers required to appear on contracts, bills, and deposit receipts.
- (6) *Establishment and Re-establishment of Credit* - Procedure to establish credit and to re-establish credit.
- (7) *Deposits* - When required, conditions precedent to return, interest paid.
- (8) *Notices* - Methods of providing notice.
- (9) *Issuance and Payment of Bills* - Methods of issuing bills, billing periods, due dates, methods of payment.
- (10) *Disputed Bills* - Methods of adjustment, deposit of disputed amount with Commission, time limits for actions.
- (11) *Discontinuance and Restoration of Service* - Reasons for discontinuance, notification, time limits for actions, procedure for restoration of service, charges.
- (12) *Information on Services and Promotional Offerings* - How to get information on services (including types of services, rate plans, conditions on eligibility, other terms and conditions) and promotional offerings available from the utility. Rule shall include office hours, telephone number, and (if applicable) e-mail address for contacting utility with requests for such information.
- (13) *Temporary Service* - Conditions to providing temporary service or service to speculative projects.
- (14) *Continuity of Service* - Interruption of delivery of service, notice to customers, apportionment of available service.
- (15) *Extensions of Lines or Mains* - Free extensions, extensions beyond free length, conditions regarding contributions or advances to individuals or developers, deposits, refunds, ownership, maintenance.

(16) *Facilities on Customers' Premises and Service Connections* - Unless additional persons authorized, only utility employees to make service connections; right of access to customers' premises.

The Industry Rules may specify additional subjects to be covered by tariff rules of utilities within the respective industries. Subjects having special significance to particular utilities shall be covered either by inclusion in the tariff rules described above or by additional numbered tariff rules specifically addressing those subjects.

8.5.8 SAMPLE FORMS

Each utility's tariffs shall contain sample copies of printed forms, such as applications for service, regular bills for service, contract forms, delinquency notices, disconnect notices, connection fee data, deposit receipts, and all other forms of concern to customers in connection with the utility's services. Such sample copies may contain data for illustrative purposes. Each sample copy shall be printed on a regularly numbered tariff sheet showing the name of the form. For purposes of this General Rule, and except where prohibited by statute or Commission order, utilities may use forms developed by government agencies.

9.0 Confidential Treatment

9.1 General Provisions

In general, any information submitted in support of or in opposition to the relief requested in an advice letter will either be open to public inspection or will already be subject to confidential treatment pursuant to nondisclosure agreements and a protective order issued in a formal proceeding. Because matters governed by this General Order are informal, it is rarely appropriate to seek confidential treatment of information submitted in the first instance in the advice letter process. In any event, confidential treatment may be requested only for the kinds of information for which such treatment is authorized by statute, by prior Commission order, or by the provisions of this General Order.

9.2 Burden of Establishing Confidentiality

A person requesting confidential treatment under this General Order bears the burden of proving why any particular document, or portion of a document, must or should be withheld from public disclosure. Any request for confidential treatment of information must reference the specific law prohibiting disclosure, the specific statutory privilege that the person believes it holds and could assert against disclosure, the specific privilege the person believes the Commission may and should assert against disclosure, or the specific provision of General Order 66-C (or its successor) or other Commission decision that authorizes a document to be kept confidential.

9.3 Procedure for Establishing Confidentiality

Whenever a person submitting a document (other than an application for rehearing) under this General Order wants the Commission to keep the entire document under seal, or in redacted and unredacted versions, that person shall submit to the reviewing Industry Division a written request for such confidential treatment. The request shall either (1) attach a copy of the protective order that applies to the information for which confidential treatment is sought, or (2) explain why it is appropriate to accord confidential treatment to the information in the first instance in the advice letter process. In the latter case, the request shall attach a proposed protective order, or reference an effective protective order applicable to advice letter filings previously submitted by the person. In either case, the request shall be narrowly drawn, shall identify the text and the information within the document for which confidential treatment is sought, and shall specify the grounds justifying such treatment.

Consistent with the above requirements, a utility may request confidential treatment for part of an advice letter; however, a utility may request confidential treatment for part of an advice letter that is effective pending disposition only if the utility concurrently provides access to the entire advice letter to those persons on its advice letter service list who have executed a reasonable nondisclosure agreement for purposes of advice letter review.

Whenever a request for confidential treatment of all or part of an advice letter is submitted to an Industry Division, the person desiring confidential treatment of information provided to the Commission shall at a minimum:

- (a) Include the following information in the cover sheet of the advice letter: (i) a statement that the utility is requesting confidential treatment of information filed in the advice letter; (ii) specification of the information for which the utility is seeking confidential treatment; (iii) a statement that the information will be made available to those who execute a nondisclosure agreement; and (iv) a list of the name and contact information of the person or persons who will provide the nondisclosure agreement and access to the confidential information. The cover sheet of an advice letter, any of the information in the cover sheet, and any of the proposed tariff sheets included as part of the advice letter will not be kept confidential.
- (b) Specifically indicate the information that the person wishes to be kept confidential, clearly marking each page, or portion of a page, for which confidential treatment is requested.
- (c) Identify the length of time the person believes the information should be kept confidential and provide a detailed justification for the proposed length of time, or identify the length of time a Commission decision addressing the information authorizes the information to be kept confidential. The business sensitivity of information generally declines over time and the balancing of interests for and against disclosure may change accordingly.
- (d) Identify any specific provision of state or federal law, or Commission decision, the person believes prohibits disclosure of the information for which it seeks confidential treatment and explain in detail the applicability of the law or decision to that information.
- (e) Identify any specific privilege, if any, the person believes it holds and may assert to prevent disclosure of information and explain in detail the applicability of that law to the information for which confidential treatment is requested.
- (f) Identify any specific privilege, if any, the person believes the Commission holds and may assert to prevent disclosure of information and explain in detail the applicability of that privilege to the information for which confidential treatment is requested.
- (g) State whether the person would object if the information were disclosed in an aggregated format.
- (h) State, to the best of one's knowledge, whether and how the person keeps the information confidential and whether the information has ever been disclosed to a person other than an employee of the utility or entity or to a non-market participant.

9.4 Duration of Confidentiality Claim

A confidentiality claim, whether or not specifically acted upon by the Commission or Industry Division, expires on the earliest of the following dates: (a) at the end of the period specified by the person in the initial confidentiality claim; (b) at the end of a period specified in a specific Commission ruling or decision; or in the event (a) or (b) are inapplicable, then (c) two years after the claim was first asserted before the Industry Division. To reassert the confidentiality claim, the person must again satisfy the requirements of this General Order before the end of the confidentiality period.

9.5 Objection to Confidentiality Claim

Any person may object to the requested confidential treatment, and shall meet and confer with the requester to resolve such objections informally whenever possible. When such objections are not so resolved, the Industry Division will refer the request to the Administrative Law Judge Division. Confidential treatment shall be accorded pending a ruling on the request; however, the Industry Division, in appropriate circumstances, may issue a notice delaying the effective date of the advice letter pending the ruling.

9.6 Disposition of Confidentiality Claim

In the case where a protective order has not yet been issued, if the Industry Division determines that confidential treatment is warranted, review of the advice letter shall proceed in the normal fashion. If the Industry Division determines that confidential treatment is not warranted, then the Industry Division shall (a) proceed with review of the advice letter, and (b) attempt to informally resolve the dispute with the filing party. If the Industry Division and filing party are unsuccessful in resolving the dispute, the filing party shall be given 10 days, following Industry

Division notification that confidentiality will not be afforded, to appeal the confidentiality issue to the Administrative Law Judge Division. Confidentiality will continue to be afforded while the appeal is pending.

ENERGY INDUSTRY RULES

TABLE OF CONTENTS

Title Page

[Energy Industry Rules 11](#)

[Industry Rule 1. Additional Definitions 11](#)

[1.1 Contract 11](#)

[1.2 Industry Rule 11](#)

[1.3 Load-Serving Entity 11](#)

[1.4 Staff 11](#)

[1.5 Utility 11](#)

[Industry Rule 2. Submitting a Document \(see General Rule 7.1\) 11](#)

[Industry Rule 3. Notice and Service Procedures 22](#)

[3.1 Notice to Customers 22](#)

[3.2 Serving Advice Letters \(see General Rules 4.3, 7.2\) 22](#)

[Industry Rule 4. Numbering Advice Letters 33](#)

[Industry Rule 5. Tier Classifications for Advice Letters 33](#)

[5.1 Matters Appropriate to Tier 1 \(Effective Pending Disposition\) 33](#)

[5.2 Matters Appropriate to Tier 2 \(Effective After Staff Approval\) 44](#)

[5.3 Matters Appropriate to Tier 3 \(Effective After Commission Approval\) 44](#)

[Industry Rule 6. Additional Tariff Requirements 55](#)

[6.1 Internet Publication 55](#)

[6.2 \[Reserved\] 55](#)

[6.3 Written Agreement Required by Tariff 55](#)

[6.4 Tariff Rules 66](#)

[Industry Rule 7. Contract or Other Deviation 66](#)

[7.1 Generally 66](#)

[7.2 Customer Protest 66](#)[Industry Rule 8. Rate Change by Oil Pipeline \(see Public Utilities Code Section 455.3\) 66](#)[8.1 Effective Date: Suspension 66](#)[8.2 Disposition 77](#)[Industry Rule 9. Compliance Filing by Load-Serving Entity \(see Public Utilities Code Section 380\) 77](#)**Energy Industry Rules****Industry Rule 1. Additional Definitions**

In addition to the definitions in General Rules 3 to 3.16, the following definitions apply to the defined terms, which will appear with the initial letter capitalized when used in these Industry Rules.

1.1 Contract

An agreement between a Utility and a developer or customer to provide service under rates or conditions not offered in the Utility's tariffs.

1.2 Industry Rule

An Industry Rule contained in the Energy Industry Rules, as set forth in General Order 96-B or its successor.

1.3 Load-Serving Entity

An electrical corporation, electric service provider, or community choice aggregator. See Public Utilities Code Section 380(j).

1.4 Staff

The Energy Division (or its successor).

1.5 Utility

A public Utility that, as defined in the Public Utilities Code, is an electrical, gas, heat, or pipeline corporation.

Industry Rule 2. Submitting a Document (see General Rule 7.1)

The Energy Division Filings Room will process documents submitted to the Energy Division for filing, including information-only filings and advice letters and associated documents (such as protests, responses, replies, and supplements). A document may be submitted in person, by delivery service, or by mail to the Energy Division Filings Room, 505 Van Ness Ave., 4th Floor, San Francisco, CA 94102-3298.

A Utility submitting an advice letter shall provide an original and five copies of the advice letter, one copy of the workpapers (if any), and an original and five copies of each affected tariff sheet. A Utility submitting an information-only filing shall submit an original and one copy, and shall cite the statute or Commission order requiring the filing.

Industry Rule 3. Notice and Service Procedures**3.1 Notice to Customers**

Unless otherwise required by a Commission order issued after September 6, 2007, exceptions to General Rule 4.2 are authorized, and no customer notice is required, for the following categories of Energy Industry advice letters:

- (1) An electrical, gas, heat, or pipeline Utility advice letter that requests higher rates or charges, or more restrictive terms or conditions of service, where the increased rates or charges, or changes to terms or conditions of service, as requested in the advice letter, have been specifically authorized by statute or by a prior Commission order;
- (2) A weekly, monthly, or semi-annual advice letter filed by a gas Utility in accordance with Commission authorized procedures to change gas rates based on changes in the price of gas;
- (3) A monthly advice letter filed by an electrical Utility in accordance with Commission authorized procedures to change electric rates based on changes in diesel fuel costs (see Resolution E-3849); and
- (4) An advice letter filed by an electrical Utility in accordance with Commission authorized procedures to pass through increases to electric rates or charges for electric transmission related costs that have been filed with and become effective at the Federal Energy Regulatory Commission. (See Resolution E-3930.)

3.2 Serving Advice Letters (see General Rules 4.3, 7.2)

On or before the date an advice letter is submitted for filing, in addition to serving the advice letter as required by General Rule 7.2, the Utility shall serve the advice letter, or a notice of the advice letter (containing a summary of major provisions and information on accessing or ordering the entire advice letter), as follows:

- (1) If the advice letter requests approval of a Contract or other deviation, serve all parties to the Contract or other deviation.
- (2) If the advice letter requests approval of rates for an oil pipeline not previously in Utility service, serve all current or potential customers of the oil pipeline.
- (3) If the advice letter requests approval of a rate change for an oil pipeline already in Utility service, serve all shippers and submit to the Energy Division Filings Room at least 30 days before the requested effective date.
- (4) Except for an advice letter described in Industry Rule 3.1 or in (3) of this Industry Rule, if the advice letter requests a change that would cause an increase in a rate or charge, reduction in service, discontinuance of a program, closing a rate schedule to new customers, canceling a rate schedule, or abandoning service to an area, serve all affected customers.
- (5) If the advice letter proposes a new product or service, serve all Utilities and other providers that are providing service within the area to be served.

Industry Rule 4. Numbering Advice Letters

For each type of service rendered, a Utility shall number its advice letters sequentially, beginning with No. 1, followed by a letter designating the type of service (E for electric, G for natural gas, H for heat, O for oil pipeline). A Utility may not reuse an advice letter number, regardless of whether the advice letter bearing that number was approved, withdrawn, or rejected. (See also General Rules 4.6, 5.3, 8.4 & 8.5.)

Industry Rule 5. Tier Classifications for Advice Letters

A Utility submitting an advice letter shall designate the appropriate tier, based on the content of the advice letter. A Tier 1 or Tier 2 advice letter is subject to disposition under General Rule 7.6.1; a Tier 3 advice letter is subject

to disposition under General Rule 7.6.2.

5.1 Matters Appropriate to Tier 1 (Effective Pending Disposition)

A matter appropriate to Tier 1 may be designated by a Utility in its advice letter as effective pending disposition. (For advice letters pursuant to General Rule 8.2.3, see Industry Rule 5.3.) Matters appropriate to Tier 1 are:

- (1) A tariff change in compliance with specific requirements of a statute or Commission order where the wording of the change follows directly from the statute or Commission order.
- (2) A non-substantive editorial change to the text of a tariff, such as correcting a typographical error. A non-substantive change does not affect a rate, charge, term, or condition under the tariff.
- (3) A change in a rate or charge pursuant to an index or formula that the Commission has approved for use in an advice letter by the Utility submitting the advice letter, not including the first time the Utility uses that index or formula. This Industry Rule does not cover a change in a methodology, such as a methodology approved by the Commission for use by a Utility for performance-based ratemaking.
- (4) A Contract that conforms to a Commission order authorizing the Contract, and that requests no deviation from the authorizing order (e.g., a gas storage Contract in exact conformity with Decision 93-02-013).
- (5) Establishment of tariff rates and charges for an oil pipeline that has not previously filed any tariffs with the Commission.
- (6) Initial tariffs for a new service by an oil pipeline, including service on a pipeline segment commencing Utility service.
- (7) A change to an existing tariff rate by an oil pipeline, as provided in Industry Rule 8.
- (8) Withdrawing a service, abandoning service within an area, canceling a rate schedule, or closing a rate schedule to new customers when authorized by a prior Commission decision, resolution, or order.

5.2 Matters Appropriate to Tier 2 (Effective After Staff Approval)

Matters appropriate to Tier 2 are:

- (1) A change in a rate or charge pursuant to an index or formula that the Commission has approved for use in an advice letter by the Utility submitting the advice letter but that the Utility has not used previously for this purpose. This Industry Rule does not cover a change pursuant to a methodology, such as a methodology approved by the Commission for use by a Utility for performance-based ratemaking.
- (2) A tariff change that is consistent with authority the Commission previously has granted to the Utility submitting the advice letter, such as a rate change within a price floor and ceiling previously approved by the Commission for that Utility.
- (3) A refund program to comply with a Commission order requiring the refund.
- (4) A request relating to a substation or power line under Section III.B.1 of General Order 131.
- (5) A rate or revenue requirement update for performance-based ratemaking as approved by the Commission for the Utility submitting the update.

(6) Amortization of a balance in a balancing account if the Commission has specified both (i) the amortization period, and (ii) the rate component by which the balance will be amortized.

(7) An advice letter otherwise appropriate to Tier 1 but for which the Utility submitting the advice letter requests review and disposition under Tier 2.

5.3 Matters Appropriate to Tier 3 (Effective After Commission Approval)

An advice letter submitted under (8) of this Industry Rule may be designated by the Utility as effective pending disposition; all other matters appropriate to Tier 3 may become effective only after Commission approval. Matters appropriate to Tier 3 are:

- (1) A matter appropriate to an advice letter but not subject to review and disposition under Tier 1 or 2. (See General Rules 5.1 and 5.2.)
- (2) A tariff change in compliance with a statute or Commission order where the wording of the change does not follow directly from the statute or Commission order.
- (3) Except as provided in Industry Rule 5.1(6), a new product or service.
- (4) Except for a change that may be submitted by advice letter pursuant to Industry Rules 5.1(1), 5.1(3), 5.1(7), 5.2(1), or 5.2(2), a change that would result in an increase to a rate or charge or a more restrictive term or condition, which change has been authorized by statute or by other Commission order to be requested by advice letter.
- (5) Except as provided in Industry Rule 5.1(4) and in (8) of this Industry Rule, a Contract or other deviation. (See also Industry Rule 7.)
- (6) Withdrawing a service, abandoning service within an area, canceling a rate schedule, or closing a rate schedule to new customers, unless the action is authorized by a prior Commission decision, resolution, or order (in which case the action may be eligible for Tier 1).
- (7) A fund transfer within or between demand-side management or research, development, and demonstration balancing accounts.
- (8) Service to a government agency pursuant to General Rule 8.2.3.
- (9) A change to a rate or charge pursuant to a methodology approved by the Commission for use in an advice letter, such as an annual performance review for performance-based ratemaking as approved by the Commission for the Utility submitting the advice letter.

Industry Rule 6. Additional Tariff Requirements

Industry Rules 6.1 to 6.4 contain tariff requirements that, as authorized by the General Rules (see in particular General Rules 8.1, 8.5, and 8.5.4), are other than or in addition to the General Rule requirements for Internet publication, service area description, and tariff contents.

6.1 Internet Publication

A Utility that must comply with the requirement to publish its tariffs at an Internet site (see General Rule 8.1.2) shall implement the requirement as follows. The requirement shall apply to each tariff sheet used by the Utility on or after the date upon which the Utility must publish its tariffs at a site on the Internet. As of that date, the Utility shall publish all of its tariff sheets then in effect or pending review and disposition. From that date onward, the Utility shall publish within five business days each new tariff sheet (or the advice letter including or attaching each new tariff sheet) that it submits for review and disposition. For each published tariff sheet, the Utility shall also publish and keep up-to-date the status of the tariff sheet (i.e., in effect; pending review and disposition; withdrawn

(see General Rule 5.3); rejected; or no longer in effect). A tariff sheet number may be used only once, and all tariff sheets published at the Utility's Internet site shall remain accessible at the site unless and until the Commission authorizes an alternative electronic means of publishing and enabling public access to the Utility's tariffs.

6.2 [Reserved]

6.3 Written Agreement Required by Tariff

If a tariff provides that a written agreement must be executed by a customer as a condition to the customer's receiving service under the tariff, the executed agreement need not be submitted for approval or filing; however, when submitting the tariff for approval, the Utility shall submit the form of agreement that will be used for purposes of the tariff. The form shall contain substantially the following clause: "This agreement at all times shall be subject to such modifications as the California Public Utilities Commission may direct from time to time in the exercise of its jurisdiction."

6.4 Tariff Rules

A Utility shall include in its tariffs, in addition to the tariff rules specified in General Rule 8.5.7, the following tariff rules, numbered as shown:

Tariff Rule 17: Meter Tests and Adjustment of Bills for Meter Error

Tariff Rule 18: Supply to Separate Premises and Resale

The Industry Division may exempt a utility from including Tariff Rules 17 or 18 if (a) the utility's existing tariffs already include comparable language; (b) a Commission decision, resolution, or order requires different tariff rules for a specific utility, or (c) the language of these rules is not appropriate to the utility's method of operation.

Industry Rule 7. Contract or Other Deviation

7.1 Generally

After a Utility enters into a Contract or other deviation, the Utility shall submit an advice letter requesting approval and updating its list of Contracts and other deviations (see General Rule 8.5.6). The Contract shall contain substantially the following clause: "Unless otherwise expressly ordered by the California Public Utilities Commission, this Contract at all times shall be subject to such modifications as the Commission may direct from time to time in the exercise of its jurisdiction." In addition, except for a Contract that is authorized to be submitted pursuant to Industry Rule 5.1(4) or 5.3(8), the Contract shall contain substantially the following clause: "This Contract does not become effective unless and until approved by the California Public Utilities Commission."

7.2 Customer Protest

A customer may protest an advice letter in which a Utility seeks approval of a Contract or other deviation for the purpose of providing service to that customer. Such protest, if it only concerns a rate or charge under the Contract or other deviation, may include a request for service pending disposition of the advice letter. Staff will approve the request for service unless, based either on another protest or Staff's own analysis, Staff finds that there is a substantial issue that should be resolved before service is provided; however, if Staff approves the request, Staff will require the customer, as a condition of such service, to deposit with the Commission the sum(s) of money in dispute pending disposition of the advice letter.

Industry Rule 8. Rate Change by Oil Pipeline (see Public Utilities Code Section 455.3)

The following procedures govern review and disposition of an advice letter requesting approval of a rate change by an oil pipeline already in Utility service. These procedures, to the extent they are inconsistent with the procedures otherwise provided by this General Order (see General Rules 7.5, 7.6.1; Industry Rules 5, 5.1),

supersede the latter procedures.

8.1 Effective Date; Suspension

An oil pipeline shall submit its advice letter requesting approval of a rate change (see Industry Rule 2), and shall serve the advice letter on all affected shippers, at least 30 days in advance of the requested effective date. (See Industry Rule 3.) The rate change, on the later of the requested effective date or 30 days after the date of filing, may be made effective pending disposition of the advice letter; however, if a requested increase exceeds a maximum of 10 percent per 12-month period, only the portion of the rate increase not exceeding that maximum may be effective pending disposition.

Staff may suspend a rate change, including an increase up to and including the maximum, once only and for a period not to exceed 30 days from the date when the oil pipeline might otherwise put the rate change into effect; the suspended rate change may be made effective at the end of that suspension, even if disposition of the advice letter is still pending. The portion that exceeds the maximum shall become effective only as provided in Industry Rule 8.2.

8.2 Disposition

Only a rate change that is neither suspended by Staff nor protested, and only to the extent it is not an increase exceeding the maximum (see Industry Rule 8.1), will be deemed approved, and such deemed approval will occur 30 days after the date of filing. An advice letter that is suspended but not protested and that does not request a rate increase exceeding the maximum will be subject to disposition as provided in General Rule 7.6.1. An advice letter that either is protested or requests a rate increase exceeding the maximum will be disposed of by resolution.

Within 30 days after the date of disposition of the advice letter, the oil pipeline shall refund to all shippers, with interest computed at the three-month commercial paper rate published by the Federal Reserve Board and accruing from the date the new rate was first charged, any portion of the rate change that is disapproved. For an advice letter that requests a rate increase exceeding the maximum, the disposition of the advice letter will determine the appropriateness of allowing retroactive charge and collection of an approved rate increase above the maximum.

Industry Rule 9. Compliance Filing by Load-Serving Entity (see Public Utilities Code Section 380)

A compliance filing by a Load-Serving Entity is not subject to protest but is otherwise subject to review and disposition under General Rules 7.5.1, 7.5.2, and 7.6.1.

WATER INDUSTRY RULES

TABLE OF CONTENTS

Title Page

[Water Industry Rules 11](#)

[Industry Rule 1. Additional Definitions 11](#)

[1.1 Balancing Account \(see Public Utilities \(Pub. Util.\) Code Section 792.5\) 11](#)

[1.2 Class A, Class B, Class C, Class D \(see Decision \(D.\) 85-04-076\) 11](#)

[1.3 Compliance Advice Letter 11](#)

[1.4 Contact Person 11](#)

[1.5 Contract 11](#)

[1.6 Industry Rule 11](#)

[1.7 Informal General Rate Case \(see D.92-03-093\) 11](#)

[1.8 Memorandum Account \(see D.85-04-076\) 11](#)

[1.9 Staff 22](#)

[1.10 Standard Practice 22](#)

[1.11 Utility 22](#)

[Industry Rule 2. Filing Advice Letters, Information-only Filings 22](#)

[Industry Rule 3. Methods of Customer Notice \(see General Rule 4.2\) 22](#)

[3.1 Method of Notice for Advice Letter Increasing Rates 22](#)

[3.2 Special Notice Rules for Compliance Advice Letter, Certain Tier 1 Advice Letters 33](#)

[3.3 Other Required Notice 33](#)

[Industry Rule 4. Serving Advice Letters \(see General Rules 4.3 & 7.2\) 33](#)

[4.1 Advice Letters Generally 33](#)

[4.2 Service Area Extension or Transfer of Ownership \(see Industry Rule 8.1\) 33](#)

[4.3 Contract or Other Deviation \(see Industry Rule 8.3.\) 44](#)

[4.4 Withdrawal or Withholding of Service \(see Industry Rule 8.7\) 44](#)

[Industry Rule 5. Tariff Sheet Numbering \(see General Rule 8.4.\) 44](#)

[Industry Rule 6. Advice Letter Supplements \(see General Rule 7.5.1\) 44](#)

[Industry Rule 7. Disposition of Advice Letters 44](#)

[7.1 Initial Review 44](#)

[7.2 Effective Date \(see General Rule 7.3\) 44](#)

[7.3 Tier Classifications for Advice Letters 44](#)

[7.3.1 Tier 1 55](#)

[7.3.2 Tier 2 55](#)

[7.3.3 Tier 3 66](#)

[Industry Rule 8. Procedures for Specific Types of Advice Letters 77](#)

[8.1 Service Extension into Contiguous or Other Area \(see Pub. Util. Code §§ 1001, 2709, 8202; Industry Rules 4.2, 7.3.2\(10\)\) 77](#)

[8.2 Request for Similar Treatment \(see Industry Rule 7.3.2\(8\)\) 77](#)

[8.3 Contract or Other Deviation \(see Pub. Util. Code §§ 532, 2712; General Rule 8.5.6; Industry Rules 4.3, 7.3.2\(3\)\) 77](#)

[8.4 Expense Offset \(see Industry Rule 7.3.2\(5\)\) 88](#)

[8.5 Balancing Account Amortization \(see Industry Rule 7.3.1\(1\)\) 88](#)

[8.6 Recycled Water \(see Pub. Util. Code § 455.1; Industry Rule 7.3.2\(8\)\) 88](#)

[8.7 Withdrawal or Withholding of Service \(see Pub. Util. Code §§ 2708, 2710, 2711; Industry Rule 7.3.3\(11\)\) 88](#)

[8.8 Service to Government Agency \(see General Rule 8.2.3; Industry Rule 7.3.1\(7\)\) 88](#)

[Industry Rule 9. Tariff Publication, Format 88](#)

[9.1 Tariff Schedules 99](#)

[9.2 Tariff Rules \(see General Rule 8.5.7\) 99](#)

[Industry Rule 10. Service Area Maps \(see General Rule 8.5.4\) 1010](#)

Water Industry Rules

Industry Rule 1. Additional Definitions

In addition to the definitions in General Rules 3 to 3.16, the following definitions apply to the defined terms, which will appear with the initial letter capitalized when used in these Industry Rules.

1.1 Balancing Account (see Public Utilities (Pub. Util.) Code Section 792.5)

A deferred charge or credit account approved by the Commission for recovery or refund (see General Rule 8.5.3).

1.2 Class A, Class B, Class C, Class D (see Decision (D.) 85-04-076)

A Utility is designated Class A if it serves over 10,000 service connections, Class B if it serves 2,001 through 10,000 service connections, Class C if it serves 501 through 2,000 service connections, and Class D if it serves no more than 500 service connections.

1.3 Compliance Advice Letter

An advice letter requesting approval of the utility's proposed implementation of a specific mandate in a statute or Commission order. Typically, a Compliance Advice Letter requests that tariff changes attached to a decision or resolution be made effective.

1.4 Contact Person

A person identified on the title page of a Utility's tariffs as the Utility's authorized representative for all rate and service quality matters.

1.5 Contract

An agreement between a Utility and a developer or customer to provide service under rates or conditions not offered in the Utility's tariffs or standard form contracts.

1.6 Industry Rule

An Industry Rule contained in these Industry Rules, as set forth in General Order 96-B or its successor.

1.7 Informal General Rate Case (see D.92-03-093)

A general rate case for a Class B, Class C, or Class D Utility that is requested by advice letter rather than by formal application.

1.8 Memorandum Account (see D.85-04-076)

A deferred charge or credit account that, as described in the Utility's preliminary statement (see General Rule 8.5.3) has been authorized by the Commission; however, deferred charges or credits shown in the Memorandum Account may be recovered in rates only after a request by the Utility, a showing of their reasonableness, and approval by the Commission.

1.9 Staff

The Water Division (or its successor).

1.10 Standard Practice

A Water Division document that provides procedural guidelines (1) to the public and Utilities for preparing, and filing with the Water Division or the Commission, various documents, including formal applications and advice letters, and (2) to Staff for reviewing such documents and creating Water Division work products. Copies of Standard Practices are available on request from the Water Division and are published on the Commission's Internet site.

1.11 Utility

A public Utility that is a water corporation (see Pub. Util. Code § 241) or a sewer system corporation (see Pub. Util. Code § 230.6).

Industry Rule 2. Filing Advice Letters, Information-only Filings

A Utility may use any one of the following procedures when filing its advice letter (General Rule 7.1) or information-only filing (General Rule 6.1) with the Water Division:

- (1) File the document in person, by delivery service, or by mail to the Water Division, Room 3102, State Building, 505 Van Ness Ave., San Francisco, CA 94102-3298;
- (2) File the document by facsimile to (415) 703-4426 (703-4H2O); or
- (3) File the document by electronic mail to water_division@cpuc.ca.gov.

These procedures also apply to filing of documents pertaining to an advice letter, e.g., a protest, response, reply, substitute sheet, or supplement.

A Utility filing an advice letter shall provide an original and two copies with workpapers. A Utility filing an information-only filing shall provide an original and one copy.

Industry Rule 3. Methods of Customer Notice (see General Rule 4.2)**3.1 Method of Notice for Advice Letter Increasing Rates**

A Utility shall give notice by bill insert or by separate mailing of an advice letter requesting approval of a more restrictive term or condition, or of a rate or charge increase, except that if the requested revenue increase is an offset increase of less than ten percent of the revenue requirement last authorized for the Utility (or district of the Utility for which the increase is requested), the Utility may give notice of the requested increase by publishing a legal notice in a newspaper of local circulation or, if no such newspaper exists, by posting notice prominently in an area in which customers normally gather. Mailed notice should be provided, whenever possible, to the customer's permanent mailing address if a Utility serves a high percentage of vacation homes. A Class A Utility shall provide a link to the advice letter on the Utility's internet site.

Staff will create the notice of an Informal General Rate Case advice letter and provide the notice to the Utility for distribution by bill insert or special mailing.

3.2 Special Notice Rules for Compliance Advice Letter, Certain Tier 1 Advice Letters

Normally, notice to customers of a Compliance Advice Letter need not be provided; however, for a Compliance Advice Letter submitted in an Informal General Rate Case, the Utility shall give notice using the form provided by the Water Division (see Standard Practice U-9-W).

Following an advice letter increasing rates as a Balancing Account amortization, CPI offset, expense offset, or pass-through of additional taxes, the Utility shall inform its customers, by bill insert in the first bill that includes the increase, of the amount of the increase, expressed in dollar and percentage terms.

3.3 Other Required Notice

In addition to the notice required by General Rule 4.2 and Industry Rule 3.1, a Class A Utility shall publish at its Internet site the notice and contents of each advice letter it has submitted whose disposition is pending. For a particular advice letter, the Director of the Water Division may require a Utility to give notice to other persons, or by other means, in addition to those specified in these Industry Rules.

Industry Rule 4. Serving Advice Letters (see General Rules 4.3 & 7.2)

At the option of the recipient, the Utility shall serve the entire advice letter, tariffs and workpapers; the advice letter and tariffs; or just the cover sheet (see General Rules 4.6 and 5.3). Except as provided in Industry Rule 4.1, service of one copy of an advice letter shall be without charge.

4.1 Advice Letters Generally

When filing any advice letter, the Utility shall serve it on the following persons:

- (1) customers, developers, municipalities, counties, and other governmental agencies, in or partially in the service area(s) affected, who have requested a particular advice letter or have requested inclusion on the Utility's advice letter service list (see General Rule 4.3);
- (2) adjacent Utilities (including, for purposes of this Industry Rule, publicly-owned utilities); and
- (3) other interested persons, such as parties of record in a related proceeding or persons having a specific interest in the advice letter.

4.2 Service Area Extension or Transfer of Ownership (see Industry Rule 8.1)

When filing an advice letter for service area extension or transfer of ownership, the Utility shall serve it on the

Local Agency Formation Commission (LAFCO) for each county in which service will be extended, and on each owner of real property, local fire protection agency, and subdivision permitting agency in the area in which service will be extended.

4.3 Contract or Other Deviation (see Industry Rule 8.3.)

When filing an advice letter for a Contract or other deviation, the Utility shall also serve it on each customer for whom the Contract or other deviation is proposed. The advice letter shall state that the customer may object to it or seek a modification by submitting a protest.

4.4 Withdrawal or Withholding of Service (see Industry Rule 8.7)

When filing an advice letter for withdrawal or withholding of service, the Utility shall also serve it on each owner of real property in the affected area.

Industry Rule 5. Tariff Sheet Numbering (see General Rule 8.4.)

At the Utility's option, the numbers for new tariff sheets may be left blank, in which case staff will assign sheet numbers. A multiple-service Utility shall use the appropriate designator (SS for Sewer System, W for Water) as a suffix to the sheet number.

Industry Rule 6. Advice Letter Supplements (see General Rule 7.5.1)

A change to a pending advice letter that is necessary to correct minor errors, or a minor editorial change to the text, may be made by a supplement. A change that results in a higher revenue requirement, or greater diminution of service, from that noticed in the original advice letter must be made by a new advice letter.

Industry Rule 7. Disposition of Advice Letters

7.1 Initial Review

If an advice letter (including its cover sheet) is incomplete (see General Rules 4.6 and 4.7), Staff will so inform the Utility and may either delay filing until corrections are made or return the advice letter without filing.

7.2 Effective Date (see General Rule 7.3)

The following provisions vary the otherwise applicable General Rules.

- (1) A Compliance Advice Letter will become effective as specified in the applicable resolution or decision, or if not specified, five days after the date of filing.
- (2) Upon request and justification by the Utility, Staff may allow a Tier 2 advice letter to be made effective, subject to refund, in less than 30 days.
- (3) An advice letter that is an Informal General Rate Case will become effective as provided in the Service Guarantee Plan (Standard Practice U-9-W).

7.3 Tier Classifications for Advice Letters

Water and sewer system advice letters are classified as Tier 1, 2, or 3 for purposes of review and disposition, as shown below.

7.3.1 TIER 1

The following advice letters are effective pending disposition, do not require notice under General Rule 4.2, and

are generally subject to approval or rejection by Staff (including deemed approval) pursuant to General Rule 7.6.1, except as indicated below:

- (1) Balancing Account amortization (see Industry Rule 8.5);
- (2) Change to sample forms (see General Rule 8.5.8);
- (3) Compliance with mandatory statute, decision, or resolution;
- (4) Consumer Price Index (CPI) offset;
- (5) Decrease in rates;
- (6) Escalation filing;
- (7) Expense offset (see Industry Rule 8.4);
- (8) Pass-through of additional taxes imposed on Utility;
- (9) Service to a government agency (see General Rule 8.2.3); but such advice letter shall be subject to disposition by Commission resolution as provided by General Rule 7.6.2; and
- (10) Emergency voluntary conservation program.

7.3.2 TIER 2

The following advice letters are effective only upon approval, but may be deemed approved and are generally subject to approval or rejection by staff pursuant to General Rule 7.6.1:

- (1) Approval of post-acquisition rates of mutual or municipal water company (see D.99-10-064);
- (2) Contract or other deviation (or tariff sheets providing service to a single customer) (see Industry Rule 8.3);
- (3) Department of Health Services (DHS) fee offset;
- (4) New service offering;
- (5) New Memorandum Account request;
- (6) Recycled water service (as provided in Industry Rule 8.6);
- (7) Request for similar treatment (as provided in Industry Rule 8.2);
- (8) Service extension into contiguous area or within city in which the Utility already provides service (Water Supply and Certification Questionnaire required) (see Industry Rule 8.1);
- (9) Transfer of ownership interest pursuant to Pub. Util. Code § 853(c);
- (10) Withdrawal of tariff schedule that has no customers; and
- (11) Provision of non-tariffed services (see D.00-07-018, D.03-04-028 & D.04-12-023).

7.3.3 TIER 3

The following advice letters may not be deemed approved and generally will be disposed of by Commission resolution pursuant to General Rule 7.6.2:

- (1) Change in ownership or control due to court proceeding, other than transfer of ownership pursuant to Pub. Util. Code § 853(c) (see Industry Rule 7.3.2(12));
- (2) Change to Commission resolution;
- (3) Closing tariff schedule to new customers;
- (4) Establish a new non-tariffed investment or recategorize an existing non-tariffed investment (see D.00-07-018);
- (5) Informal General Rate Case;
- (6) Loan approval or stock sale permission request by Class C or Class D Utility (see D.93-11-066);
- (7) Memorandum Account amortization (see Standard Practice U-27-W);
- (8) Rate base offset except that a Rate base offset will be disposed of under Tier 2 when staff determines that:
 - (i) The Rate base offset was previously approved by the Commission in a decision or resolution;
 - (ii) The project scope is consistent with what the Commission approved; and
 - (iii) The Commission approval included a budget cap and the rate base offset request is at or below the budget cap.
- (9) Revocation of certificate of public convenience and necessity due to abandonment or sale to municipality or special district;
- (10) Transfer of ownership of inadequately operated and maintained Class C or Class D water Utility (see D.99-10-064);
- (11) Withdrawal or withholding of service (see Industry Rule 8.7); and
- (12) A matter appropriate to advice letter but not subject to approval or rejection under Industry Rules 7.3.1 or 7.3.2.

Industry Rule 8. Procedures for Specific Types of Advice Letters

8.1 Service Extension into Contiguous or Other Area (see Pub. Util. Code §§ 1001, 2709, 8202; Industry Rules 4.2, 7.3.2(10))

A service area extension is into a contiguous area for purposes of this Industry Rule if (1) the distance between the existing service area and the new area does not exceed 2,000 feet at the points of closest proximity, or (2) service will be provided by the extension of line, plant, or system from the Utility's existing service area. If entirely separate sources of supply and distribution are used in the new area, and the separation is over 2,000 feet, the extension is not contiguous, and the Utility must seek authority by means of a formal application to serve the new area.

At least 30 days before (1) commencing service in an area within a city in which the Utility is already providing service, (2) extending service to a contiguous area, or (3) taking ownership of a mutual or municipal water

company, the Utility shall submit a service area map delineating the added area, and proof that the utility already has a water supply adequate to serve the areas or a plan to obtain such a supply. (See Standard Practices U-14-W and U-18-W.)

8.2 Request for Similar Treatment (see Industry Rule 7.3.2(8))

A Utility may submit an advice letter requesting approval, authorization, or other relief similar to that accorded another Utility by Commission order. The advice letter shall cite each decision or resolution relied upon, and shall demonstrate that the Utility submitting the advice letter is similarly situated in all material respects, and is requesting the same relief and relying on the same justification as in the cited order(s).

8.3 Contract or Other Deviation (see Pub. Util. Code §§ 532, 2712; General Rule 8.5.6; Industry Rules 4.3, 7.3.2(3))

After entering into a Contract or other deviation, but at least 30 days before the effective date of the rate or service, the Utility shall file an advice letter requesting approval and updating its list of Contracts and other deviations.

Each Contract shall contain substantially the following provisions:

- (1) "This Contract may not become effective until it is approved by the California Public Utilities Commission"; and
- (2) "This Contract at all times shall be subject to such modifications as the California Public Utilities Commission may direct from time to time in the exercise of its jurisdiction."

A customer may protest an advice letter in which a Utility seeks approval of a Contract or other deviation for the purpose of providing service to that customer. Such protest, if it only concerns a rate or charge under the Contract or other deviation, may include a request for service pending disposition of the advice letter. Alternatively, in that situation, the Utility may request to provide service pending disposition of the advice letter. Staff will approve the request for service unless, based either on another protest or Staff's own analysis, Staff finds that there is a substantial issue that should be resolved before service is provided; however, if Staff approves the request, Staff will require the customer, as a condition of such service, to deposit with the Commission the sum(s) of money in dispute pending disposition of the advice letter.

8.4 Expense Offset (see Industry Rule 7.3.2(5))

When a Utility knows that an expense subject to offset is likely to change in the future, it shall file an advice letter for a concurrent change in rates. When an expense subject to offset changes without warning, the affected Utility shall file an advice letter within 60 days of the change seeking to adjust the rates accordingly.

8.5 Balancing Account Amortization (see Industry Rule 7.3.1(1))

A Utility shall promptly file an advice letter seeking to amortize an over- or under-collected balancing account when the balance exceeds two percent of the most recent annual report revenue for the Utility (or district of the Utility). An over-collection shall be refunded as soon as possible by crediting the service charge. An under-collection shall be recovered within one year by a surcharge on the service charge or commodity charge, as appropriate (see Standard Practice U-15-W). A Utility may not request recovery for an under-collection that is over three years old.

8.6 Recycled Water (see Pub. Util. Code § 455.1; Industry Rule 7.3.2(8))

If an advice letter requesting an initial rate or a rate increase for recycled water service is protested, the matter shall be set for hearing, the tariff schedules shall become effective, subject to refund, 30 days after the date of filing, and the Commission will dispose of the advice letter by resolution. If Staff requests additional information from the Utility, and if the Utility appropriately supplements the advice letter within 10 days of receiving Staff's

request, the tariff schedules in the supplement shall become effective, subject to refund, five days after the date of filing of the supplement, and the Commission will dispose of the advice letter by resolution.

8.7 Withdrawal or Withholding of Service (see Pub. Util. Code §§ 2708, 2710, 2711; Industry Rule 7.3.3 (11))

A Utility shall provide service to any person in its service area on demand, in accordance with its tariffs; however, if a water shortage exists, or if the Department of Health Services has imposed a building permit moratorium, or if other good cause requires, the Utility shall file an advice letter requesting either (1) approval to withdraw service from all or part of its service area (including a new service area map), or (2) Commission imposition of a service connection moratorium and Commission authorization before withholding service.

8.8 Service to Government Agency (see General Rule 8.2.3; Industry Rule 7.3.1(7))

An advice letter to provide service to a government agency pursuant to General Rule 8.2.3 may be designated by the Utility as effective pending disposition.

Industry Rule 9. Tariff Publication, Format

Each Class A Utility shall be subject to the Internet publication requirements of General Rule 8.1.2.

9.1 Tariff Schedules

Water Rate Schedules shall be published, as appropriate, for each of the Utility's districts:

- (1) General Metered Service;
- (2) Flat Rate Service;
- (3) Irrigation Service;
- (4) Fire Sprinkler Service;
- (5) Private Fire Protection Service (see Pub. Util. Code § 2713 (b));
- (6) Recycled Water Service;
- (7) Construction and Other Temporary Metered Service;
- (8) Service to Employees;
- (9) Water Conservation Plan; and
- (10) Other water or sewer services.

The above schedules shall be followed or preceded by schedules applicable to multiple districts such as:

UF-Surcharge to fund Public Utilities Commission Reimbursement Fee

LC-Late Payment Charge

FF-Facilities Fees

Sewer System Rate Schedules shall be numbered and printed in the following order, for each of the Utility's

districts:

- (1) Sewer Service or General Residential Service
- (2) Commercial and Industrial Service

The above schedules shall be followed or preceded by schedules applicable to multiple districts such as:

- UF-Surcharge to Fund Public Utilities Commission Reimbursement Fee
- LC-Late Payment Charge

Tariff sheets may not contain marks or alterations unless approved by staff. Only one side of a sheet may be used.

9.2 Tariff Rules (see General Rule 8.5.7)

A Utility shall include in its tariffs, following the tariff rules specified in General Rule 8.5.7, these additional tariff rules, numbered as follows:

Tariff Rule 17: Standards for Measurement of Service-Method of measuring, accuracy limits

Tariff Rule 18: Meter Tests and Adjustment of Bills for Meter Error-Specification of conditions, fees, and frequency of tests

Tariff Rule 19:

For Water Utilities: Supply to Separate Premises and Multiple Units-Separate metering on separate premises

For Sewer System Utilities: Resale of (Sewer) Service-Conditions for resale

Tariff Rule 20:

For Water Utilities: Water Conservation-Use of water- saving devices, provision of free water-saving kits

For Sewer System Utilities: Limitation on Wastes Discharged into the Utility's Sewer System-Items that may not be disposed of through the sewer system

Tariff Rule 21:

For Water Utilities: Fire Protection-General rules for fire protection service

For Sewer System Utilities: Commercial, Institutional and Industrial Wastes-Notice of waste discharge and preliminary treatment

Industry Rule 10. Service Area Maps (see General Rule 8.5.4)

A Utility shall prepare a digital map of its authorized service area boundaries prepared using a common projection and datum that meets a minimum resolution of 1:24,000 scale, distributed in an open format and accompanied by Federal Geographic Data Committee (FGDC)-compliant metadata. In addition, a utility shall provide a digital basemap (in TIF or PDF format) for printing that includes, at a minimum, its service area, major roads, and relevant administrative boundaries (e.g., counties, cities, federal and state land).

A Utility shall submit the map, and updates as the authorized service area changes, to the Water Division and to the Local Agency Formation Commission (LAFCO) for each county within the Utility's authorized service area. The Water Division will establish detailed map specifications and compliance schedules for the preparation of digital maps; but in no event will the compliance schedule extend beyond December 31, 2007, for Class A Utilities and December 31, 2008, for all other Utilities.

TELECOMMUNICATIONS INDUSTRY RULES

TABLE OF CONTENTS

Title Page

[Telecommunications Industry Rules 11](#)

[Industry Rule 1. Additional Definitions 11](#)

[1.1 Basic Service 11](#)

[1.2 Carrier of Last Resort 11](#)

[1.3 Compliance Advice Letter 11](#)

[1.4 Freezing of Service 11](#)

[1.5 GRC-LEC 11](#)

[1.6 Industry Rule 11](#)

[1.7 Market Trial; Technical Trial 11](#)

[1.8 New Service 11](#)

[1.9 Promotional Offering; Promotional Platform 11](#)

[1.10 Resale Service 22](#)

[1.11 Staff 22](#)

[1.12 Telecommunications Advice Letter Coordinator 22](#)

[1.13 Transfer 22](#)

[1.14 URF Carrier and URF ILEC 22](#)

[1.15 Utility 22](#)

[1.16 Withdrawal of Service 22](#)

[Industry Rule 2. Submitting Documents for Filing; Telephone Directories 22](#)

[Industry Rule 3. Notice to Affected Customers 33](#)

[3.1 Customer Notice of Transfer 33](#)

[3.2 Customer Notice of Withdrawal 33](#)

[3.3 Customer Notice of Higher Rates, More Restrictive Terms 33](#)

[Industry Rule 4. Contracts and Other Deviations 44](#)

[Industry Rule 5. Detariffed and Non-tariffed Service 44](#)

[5.1 URF Carrier 44](#)

[5.2 Publication of Rates, Charges, Terms, and Conditions \(URF Carrier\) 44](#)

[5.3 Notice to Customers \(URF Carrier\) 55](#)

[5.4 Market Trial; Technical Trial \(URF Carrier\) 55](#)

[5.5 Commercial Mobile Radio Service Provider 55](#)

[Industry Rule 6. Advice Letter Contents 55](#)

[Industry Rule 7. Advice Letter Review 55](#)

[7.1 Matters Appropriate to a Tier 1 Advice Letter \(Effective Pending Disposition\) 66](#)

[7.2 Matters Appropriate to a Tier 2 Advice Letter \(Effective After Staff Approval\) 77](#)

[7.3 Matters Appropriate to a Tier 3 Advice Letter \(Effective After Commission Approval\) 77](#)

[7.4 Matters Requiring Review in a Formal Proceeding 88](#)

[Industry Rule 8. Procedures for Specific Types of Advice Letters, Information-only Filings, and Formal Proceedings 88](#)

[8.1 Negotiated Interconnection Agreements 88](#)

[8.2 Contracts for Tariffed Services 88](#)

[8.2.1 Deadline for Submittal; Effective Date 88](#)

[8.2.2 Availability of Contract Rates 99](#)

[8.2.3 Required Clauses \(GRC-LEC\) 99](#)

[8.2.4 Cost Justification \(GRC-LEC\) 99](#)

[8.3 New Service 99](#)

[8.4 Change to Tariffed Rate, Charge, Term, or Condition 99](#)

[8.5 Withdrawing Basic Service 99](#)

[8.6 Transfer 1010](#)

[8.6.1 Transfer of GRC-LEC or URF ILEC 1010](#)

[8.6.2 Transfer of Interexchange or Competitive Local Carrier 1010](#)

[8.6.3 Transfer of Commercial Mobile Radio Service Provider 1010](#)

[8.7 Promotional Offering 1010](#)

[Industry Rule 9. Notification of DBAs 1010](#)

Telecommunications Industry Rules

Industry Rule 1. Additional Definitions

In addition to the definitions in General Rules 3 to 3.16, the following definitions apply to the defined terms, which appear with the initial letter capitalized when used in these Industry Rules.

1.1 Basic Service

"Basic Service" means the service elements, as specified in Decision 96-10-066 (Appendix B, Part 4) and as modified from time to time by the Commission, that a provider of local exchange service must offer to each residential customer who requests local exchange service from the provider.

1.2 Carrier of Last Resort

"Carrier of Last Resort" means a carrier that has specific duties regarding the provision of Basic Service and universal service, as specified in Decision 96-10-066 and as modified from time to time by the Commission.

1.3 Compliance Advice Letter

"Compliance Advice Letter" means an advice letter seeking approval of the Utility's proposed implementation of a specific requirement in a statute or Commission order.

1.4 Freezing of Service

"Freezing" or "Freezing of Service" means discontinuing a service's availability to customers, other than those customers receiving the service from the Utility as of the date that the Utility freezes the service.

1.5 GRC-LEC

"GRC-LEC" means a local exchange carrier that is regulated through cost-of-service regulation.

1.6 Industry Rule

"Industry Rule" means an Industry Rule in the Telecommunications Industry Rules, as set forth in General Order 96-B or its successor.

1.7 Market Trial; Technical Trial

"Market Trial" or "Technical Trial" means a New Service offered only for a specified limited duration for the purpose of testing or evaluating the service.

1.8 New Service

"New Service" means a service that (i) is distinguished from any existing service offered by the Utility by virtue of the technology employed; or (ii) includes features or functions not previously offered in any service configuration by the Utility.

1.9 Promotional Offering; Promotional Platform

"Promotional Offering" means an existing service offered under tariffed terms temporarily deviating from the otherwise applicable

tariff in order to promote the service. "Promotional Platform" means a tariffed description of service for which a GRC-LEC may make a Promotional Offering.

1.10 Resale Service

"Resale Service" means a tariffed service that a carrier offers to another carrier for resale.

1.11 Staff

"Staff" means the Communications Division (or its successor).

1.12 Telecommunications Advice Letter Coordinator

"Telecommunications Advice Letter Coordinator" means the person who processes documents submitted to the Communications Division for filing.

1.13 Transfer

"Transfer" means a Transfer of assets (including the entire customer base or an entire class of customers) and/or Transfer of control.

1.14 URF Carrier and URF ILEC

"URF Carrier" means a Utility that is a wireline carrier that has full pricing flexibility over all or substantially all of its rates and charges. "URF Carrier" includes any incumbent local exchange carrier that is regulated through the Commission's uniform regulatory framework, as established in Decision 06-08-030, and as modified from time to time by the Commission; competitive local exchange carriers; and interexchange carriers.

"URF ILEC" means those incumbent local exchange carriers currently granted pricing flexibility through D.06-08-030, and as may be modified from time to time.

1.15 Utility

"Utility" means a public Utility that is a telephone corporation as defined in the Public Utilities Code. Only GRC-LECs and URF Carriers are required to file advice letters under the Industry Rules.

1.16 Withdrawal of Service

"Withdrawal" or "Withdrawal of Service" means discontinuing a service's availability to all customers, including those customers receiving the service as of the date it is withdrawn.

Industry Rule 2. Submitting Documents for Filing; Telephone Directories

For instructions on filing an advice letter, a document pertaining to an advice letter (e.g., a protest, response, reply, substitute sheet, or supplement), or an information-only filing, go to the Commission's Internet site (www.cpuc.ca.gov) and look for the Communications Division's link.

A Utility that issues a telephone directory must submit, concurrent with publication, two copies of each directory to the Telecommunications Advice Letter Coordinator, Communications Division, 505 Van Ness Ave., 3rd Floor, San Francisco, CA 94102-3298. However, a directory is not a tariff and will not be listed in the table of contents of the Utility's tariffs or given Cal. P.U.C. sheet numbers. A local exchange company must notify public libraries that they will provide without charge, upon request, copies of its current telephone directory to any public library in California and must provide such copies. GRC-LECs may provide only one copy per library.

Industry Rule 3. Notice to Affected Customers

No later than the date that is 30 days before the advice letter's requested effective date, or on the date that the Utility submits the advice letter to the Telecommunications Advice Letter Coordinator, whichever date is earlier, the Utility must give notice to each affected customer of the advice letter if it requests approval of a Transfer, Withdrawal of Service, or higher rates or charges or more restrictive terms or conditions.

However, no further customer notice under this Industry Rule 3 or General Rule 4.2 is required of a Utility's Compliance Advice Letter that implements a prior Commission order approving the Utility's request for authorization of a Transfer, Withdrawal of Service, or higher rates or charges or more restrictive terms or conditions, unless a further notice is required in the prior Commission order.

Whenever this customer notice is of an advice letter submitted or required to be submitted in Tier 3 (see Industry Rule 7.3), the notice must contain information regarding procedure for protests, as follows: "The proposed [insert Transfer, Withdrawal of Service, or higher rates or charges or more restrictive terms or conditions, as appropriate] is being submitted by Advice Letter _____ [insert advice letter number] for review and possible approval by the California Public Utilities Commission. The advice letter was filed with the Communications Division [insert date of filing]. Anyone may object to the advice letter by sending a written protest to: Telecommunications Advice Letter Coordinator, Communications Division, 505 Van Ness Ave., 3rd Floor, San Francisco, CA 94102-3298. The protest must state specifically the grounds on which it is based. The protest must be received by the Telecommunications Advice Letter Coordinator no later than 20 days after the date that the advice letter was filed. On or before the day that the protest is sent to the Telecommunications Advice Letter Coordinator, the protestant must send a copy of the protest to _____ [insert name and address of person whom the Utility has designated in the advice letter to receive protests]. To obtain information about the Commission's procedures for advice letters and protests, go to the Commission's Internet site (www.cpuc.ca.gov) and look for document links to General Order 96-B."

3.1 Customer Notice of Transfer

If the utility requests approval of a transfer of customers, the notice must identify the transferee, describe the changes (if any) in rates, charges, terms, or conditions of service, state that customers have the right to select another utility, and provide a toll-free customer service telephone number for the purpose of responding to customers' questions.

3.2 Customer Notice of Withdrawal

If a Utility requests approval of a Withdrawal of Service, the notice must also describe the proposed Withdrawal. In the case of a Withdrawal from providing Basic Service, the notice must describe the arrangements the Utility has made to ensure continuity of service to affected customers. If the Utility resells Basic Service (or service element thereof), the arrangements must include notice to affected customers that they may choose another service provider or (if no other service provider is chosen) receive Basic Service from the underlying carrier or Carrier of Last Resort. If the Utility is proposing Withdrawal of Basic Service that it provides using its own facilities, the Utility must arrange for Transfer of its customers to another Utility. (See Industry Rules 3.1, 8.5, 8.6.)

3.3 Customer Notice of Higher Rates, More Restrictive Terms

A notice of higher rates or charges or more restrictive terms or conditions, must state the current and proposed rates, charges, terms, or conditions (as appropriate). If the Utility giving notice is a GRC-LEC, the notice must also state the reasons for the proposed change and the impact of any proposed change on the affected rate or charge, expressed in dollar and percentage terms.

Industry Rule 4. Contracts and Other Deviations

The Commission may authorize a Utility, on a case-by case basis, to provide service under a contract or other deviation that departs from rates, charges, terms, or conditions offered in the Utility's tariffs. A Utility that does not use tariffs to provide service other than Basic Service may provide such detariffed or non-tariffed service under a contract, without any additional authorization from the Commission.

Industry Rule 5. Detariffed and Non-tariffed Service

An URF Carrier may cancel by advice letter any retail tariff currently in effect except for the following: Basic Service; 911 or e-911 service; a provision, condition, or requirement imposed by the Commission in an enforcement, complaint, or merger proceeding; a provision relating to customer direct access to or choice of an interexchange carrier; a service (such as Resale Service) not within the scope of services for which the Commission granted full pricing flexibility in Decision 06-08-030; or a provision pertaining to a Utility's obligations under state or federal law (such as California public policy surcharges or Carrier of Last Resort obligations), or the Commission's decisions or orders.

The Commission otherwise will consider granting exceptions from the general requirement (see General Rule 8.2.1) that a Utility serve its California customers under its filed tariffs. Such exceptions, allowing the Utility to provide detariffed service, may be granted to a specific Utility or type of Utility, or for specific services offered by the Utility or type of Utility. Industry Rules 5.1 to 5.5, which will be updated as necessary, list the currently authorized exceptions and certain requirements that apply to service not provided under tariff.

5.1 URF Carrier

Subject to Industry Rule 5, an URF Carrier may request to detariff in whole or in part. The URF Carrier seeking to detariff a service not excluded under Industry Rule 5 must submit a Tier 2 advice letter. The advice letter must identify the service that the URF Carrier proposes to detariff and must attest that the service is not one of the services excepted from detariffing under Industry Rule 5.

After the Commission has authorized an URF Carrier to detariff in whole or in part, the URF Carrier may make available to the public New Service offerings on a detariffed basis to the extent consistent with the Commission's authorization. If the URF Carrier seeks to make available to the public on a detariffed basis a New Service that does not fall into categories in which the URF Carrier has already detariffed existing services, the URF Carrier must file an advice letter under Tier 2 that introduces and describes the New Service and simultaneously seeks Detariffing for that New Service. The advice letter shall also attest that the New Service is not one of the services excepted from detariffing under Industry Rule 5. (See General Rules 6.1, 6.2; Industry Rule 2.)

5.2 Publication of Rates, Charges, Terms, and Conditions (URF Carrier)

For any service or bundled offering available to the public but detariffed, the URF Carrier providing the service or bundled offering must at all times and without charge publish, at a site on the Internet, the applicable rates, charges, terms, and conditions for that detariffed service or bundled offering. The URF Carrier must also publish at its Internet site an archive of its canceled rates, charges, terms, and conditions, going back three years or to the date of detariffing, whichever is more recent.

In maintaining the Internet site required by this Industry Rule, the URF Carrier must comply with the following requirements:

- i) the webpage containing rates, terms, and conditions for detariffed services must be free of marketing and sales information or ads;
- ii) the webpages for rates, terms, and conditions must be accessible without requiring personally identifying information except for area code, NXX, or zip code; and
- iii) the URF Carrier must provide the Commission with a current link to the URF Carrier's webpage for accessing tariffed and detariffed rates.

5.3 Notice to Customers (URF Carrier)

For any service available to the public but not provided under tariff, the URF Carrier providing the service must notify each affected customer of a higher rate or charge, or more restrictive term or condition, or Withdrawal of Service, or Transfer of ownership or customer base. The URF Carrier must give this notice at least 30 days before the date when the change will occur.

The URF Carrier may satisfy a notice requirement in this Industry Rule by one or a combination of the following means: bill inserts; notices printed on bills; or separate notices sent by first-class mail (or by e-mail to a customer who consents to receive bills or notices from the carrier by e-mail). Notice by first-class mail is complete when the

document is deposited in the mail, and notice by e-mail is complete upon successful transmission.

5.4 Market Trial; Technical Trial (URF Carrier)

An URF Carrier must submit an information-only filing that describes any Market Trial or Technical Trial. Such an information-only filing will be treated as confidential pursuant to General Rule 9.

5.5 Commercial Mobile Radio Service Provider

A commercial mobile radio service provider may not file tariffs with the Commission but shall make available information showing rates, charges, terms, and conditions of its generally available services.

Industry Rule 6. Advice Letter Contents

An advice letter must include (1) a copy of the notice to affected customers, if such notice is required by Industry Rule 3, and (2) the following statement: "Anyone may object to this advice letter, which was filed on [insert date of filing], by sending a written protest to: Telecommunications Advice Letter Coordinator, Communications Division, 505 Van Ness Ave., 3rd Floor, San Francisco, CA 94102-3298. The protest must state specifically the grounds on which it is based. The protest must be received by the Telecommunications Advice Letter Coordinator no later than 20 days after the date that the advice letter was filed. On or before the day that the protest is sent to the Telecommunications Advice Letter Coordinator, the protestant must send a copy of the protest to _____ [insert name and address of person whom the Utility has designated in the advice letter to receive protests]. To obtain information about the Commission's procedures for advice letters and protests, go to the Commission's Internet site (www.cpuc.ca.gov) and look for document links to General Order 96-B."

Industry Rule 7. Advice Letter Review

A Utility submitting an advice letter must designate the appropriate tier, based on the content of the advice letter. An erroneous designation is not binding on Staff. A Tier 1 or Tier 2 advice letter is subject to disposition under General Rule 7.6.1; a Tier 3 advice letter is subject to disposition under General Rule 7.6.2.

7.1 Matters Appropriate to a Tier 1 Advice Letter (Effective Pending Disposition)

By submitting an advice letter in Tier 1, a Utility represents that the advice letter is properly filed in Tier 1, and that the Utility has complied with the applicable customer notice requirements, as set forth in Industry Rules 3 to 3.3 and as referenced in this Industry Rule 7.1. Pursuant to General Rule 4.2, the Utility must document its compliance with applicable customer notice requirements; if an advice letter accepted for filing is found not to have been noticed in compliance with these requirements, Staff will reject the advice letter without prejudice. The following matters may be filed under Tier 1:

- (1) An editorial change to the text of a tariff that does not affect a rate, charge, term, or condition under the tariff.
- (2) A change to the name of a product or service.
- (3) A Compliance Advice Letter, unless the Commission order directing the submission of the advice letter specifies another tier.
- (4) An exchange area boundary realignment that does not result in an increase to a rate or charge or in a more restrictive term or condition.
- (5) A change by an URF Carrier to a rate, charge, term, or condition of a retail service (except for ILEC Basic Service rates). Changes to terms and conditions for Basic Service that do not conflict with law or the Commission's decisions or orders are permitted.
- (6) A change by an URF Carrier to (i) a Resale Service rate or charge, if the change has been noticed in compliance with Industry Rules 3 and 3.3 (as applicable), and such rate or charge is

linked to a tariffed service rate or charge by a discount adopted by the Commission, or (ii) a Resale Service term or condition, if the change has been noticed in compliance with Industry Rules 3 and 3.3 (as applicable), and such term or condition incorporates a term or condition approved by the Commission for the corresponding URF Carrier Service.

(7) A New Service offering of an URF Carrier where the New Service has full pricing flexibility. (See Industry Rule 8.3.)

(8) A contract for a tariffed service by an URF Carrier.

(9) A Withdrawal or Freezing of Service by an URF Carrier (not including a Withdrawal or Freezing subject to Industry Rule 7.4(1). In the case of a Withdrawal, it must have been noticed in compliance with Industry Rules 3 and 3.2.

(10) A new Promotional Offering for a tariffed service, or continuation of a tariffed Promotional Offering, by an URF Carrier.

(11) A new Promotional Offering, or continuation of a Promotional Offering, by a GRC-LEC for which there is a Commission-approved Promotional Platform. (See Industry Rule 7.3(6).)

(12) Emergency Service provided by an URF Carrier or GRC-LEC pursuant to General Rule 8.2.3.

(13) Price changes to special access service that are permitted to be filed in Tier 1, as ordered by the Commission.

7.2 Matters Appropriate to a Tier 2 Advice Letter (Effective After Staff Approval)

By submitting an advice letter in Tier 2, a Utility represents that the advice letter is properly filed in Tier 2, and that the Utility has complied with the applicable customer notice requirements, as set forth in Industry Rules 3 to 3.3 and as referenced in this Industry Rule 7.2. Pursuant to General Rule 4.2, the Utility must document its compliance with applicable customer notice requirements; if an advice letter accepted for filing is found not to have been noticed in compliance with these requirements, Staff will reject the advice letter without prejudice. If a Tier 2 advice letter has not been suspended by staff by the end of the initial 30-day review period, the Tier 2 advice letter is deemed approved. The following matters must be filed under Tier 2:

(1) A New Service of a GRC-LEC. (See Industry Rule 8.3.)

(2) A contract for a tariffed service by a GRC-LEC. (See Industry Rules 8.2.3, 8.2.4.)

(3) Detariffing by an URF Carrier. (See Industry Rules 5, 5.1.)

(4) A request to Transfer by a carrier other than a GRC-LEC or an URF Carrier that is an incumbent local exchange carrier. (See Industry Rule 8.6.2.)

(5) An advice letter otherwise appropriate to Tier 1 but for which the Utility submitting the advice letter requests review and disposition under Tier 2.

(6) Price changes to special access service that are permitted to be filed in Tier 2, as ordered by the Commission.

7.3 Matters Appropriate to a Tier 3 Advice Letter (Effective After Commission Approval)

By submitting an advice letter in Tier 3, a Utility represents that the advice letter is properly filed in Tier 3, and that the Utility has complied with the applicable customer notice requirements, as set forth in Industry Rules 3 to 3.3

and as referenced in this Industry Rule 7.3. Pursuant to General Rule 4.2, the Utility must document its compliance with applicable customer notice requirements; if an advice letter accepted for filing is found not to have been noticed in compliance with these requirements, Staff will reject the advice letter without prejudice. The following matters must be filed under Tier 3:

- (1) A matter appropriate to an advice letter but not subject to review and disposition under Tier 1 or Tier 2. (See General Rule 5.1.)
- (2) A negotiated interconnection agreement pursuant to Section 252 of the Telecommunications Act of 1996 (47 USC § 252). (See Industry Rule 8.1.)
- (3) An exchange area boundary realignment by a GRC-LEC, which realignment results in an increase to a rate or charge or in a reduction in service to existing customers, and has been noticed in compliance with Industry Rules 3 and 3.3 (as applicable).
- (4) A change by a GRC-LEC to a rate, charge, term, or condition, which change has been noticed in compliance with Industry Rules 3 and 3.3 (as applicable).
- (5) An update by a GRC-LEC regarding its allocation from the high cost fund.
- (6) A Promotional Platform of a GRC-LEC.
- (7) Except where review in a formal proceeding is required by Industry Rule 7.4(1), Withdrawal or Freezing of Service by a GRC-LEC. In the case of a Withdrawal, it must have been noticed in compliance with Industry Rules 3 and 3.2.

7.4 Matters Requiring Review in a Formal Proceeding

Staff will reject without prejudice an advice letter that requests relief or raises issues requiring an evidentiary hearing or otherwise requiring review in an application, petition for modification, or other formal proceeding. (See General Rules 5.2, 5.3.) Matters requiring such review include, but are not limited to:

- (1) Withdrawal or Freezing of Resale Service or of Basic Service (or any service element thereof). In the case of a Withdrawal, it must have been noticed in compliance with Industry Rules 3 and 3.2, and must meet all applicable requirements of Industry Rule 8.5.
- (2) A request for operating authority or for authority to expand service area.
- (3) A request to Transfer by a GRC-LEC or an URF Carrier that is an incumbent local exchange carrier where the Transfer is subject to Commission review pursuant to Public Utilities Code Section 854.
- (4) A request by an URF Carrier to modify or cancel a provision, condition, or requirement imposed by the Commission in an enforcement, complaint, or merger proceeding. (See Industry Rule 5.)

Industry Rule 8. Procedures for Specific Types of Advice Letters, Information-only Filings, and Formal Proceedings

8.1 Negotiated Interconnection Agreements

Promptly upon execution of an interconnection agreement arrived at through negotiation pursuant to Section 252 of the Telecommunications Act of 1996 (47 USC § 252), the agreement must be submitted by advice letter for Commission approval. The advice letter will be subject to review and disposition within the timeframes provided for such advice letters by Resolution ALJ-181 (October 5, 2000), as may be modified by the Commission from time to time, and in conformity with federal law.

8.2 Contracts for Tariffed Services

Contracts for tariffed services must be submitted to the Commission under this Industry Rule. Except for negotiated interconnection agreements, a contract that involves only detariffed or non-tariffed services is not subject to Commission approval and is not to be submitted for filing.

8.2.1 Deadline for Submittal; Effective Date

Within 15 business days after the execution of a contract for a tariffed service, the contract must be submitted by advice letter for Commission approval. A Utility that violates the deadline for submittal is liable to such sanctions as the Commission may impose, including but not limited to the penalties set forth in Decision 91-07-010 and the Public Utilities Code, as appropriate. Violation of the deadline does not, in itself, invalidate a contract. In the case of a contract properly submitted for review and disposition by Tier 1 advice letter, the contract may be made effective on the date of execution.

8.2.2 Availability of Contract Rates

The rate or charge under a contract then in effect must be made available to any similarly situated customer that is willing to enter into a contract with the same terms and conditions of service.

8.2.3 Required Clauses (GRC-LEC)

A contract by a GRC-LEC for a tariffed service must contain the following clauses: "This contract at all times is subject to such modifications as the California Public Utilities Commission may direct from time to time in the exercise of its jurisdiction. This contract does not become effective unless and until approved by the California Public Utilities Commission."

8.2.4 Cost Justification (GRC-LEC)

An advice letter by a GRC-LEC requesting approval of a contract must show that each rate or charge set in the contract is at or above cost. Cost data provided in support of the contract may be submitted under seal together with a request for confidential treatment. (See General Rule 9.)

8.3 New Service

An advice letter requesting approval of a New Service must attest that the proposed service would:

- (1) comply with all applicable provisions of the Public Utilities Code, including without limitation Sections 2891 to 2894.10, and with the applicable consumer protection rules adopted by the Commission;
- (2) not result in a degradation in quality of other service provided by the Utility submitting the advice letter; and
- (3) not be activated for a particular customer unless affirmatively requested by the customer.

An advice letter by a GRC-LEC requesting approval of a New Service must show that the rate or charge set for the New Service is at or above cost. Cost data provided in support of the New Service may be submitted under seal together with a request for confidential treatment. (See General Rule 9.)

8.4 Change to Tariffed Rate, Charge, Term, or Condition

An advice letter requesting approval of a change to a tariffed rate, charge, term, or condition, if the change is required to be submitted for review and disposition by Tier 3 advice letter, must demonstrate that the rate, charge, term, or condition, as proposed to be changed, would be just and reasonable. If Staff determines that a change requested by an advice letter to a rate, charge, term, or condition requires a hearing or otherwise requires review

in a formal proceeding, Staff will reject the advice letter without prejudice. (See General Rule 5.3.)

8.5 Withdrawing Basic Service

Prior to a Utility's Withdrawal, in whole or part, from offering Basic Service (or any service element thereof) within its service area, the Utility must file an application, as appropriate (see Industry Rule 7.4(1)), requesting the Commission's authorization. The application must conform to the Commission's Mass Migration Guidelines, as specified in Decision 06-10-021 and as modified from time to time by the Commission. The request must state the date and method by which the Utility notified affected customers of the proposed Withdrawal (see Industry Rules 3 and 3.2), and must describe the arrangements the Utility has made to ensure continuity of service to affected customers. If the Utility resells Basic Service (or any service element thereof), the arrangements must include notice to affected customers that they may choose another service provider or (if no other service provider is chosen) receive Basic Service from the underlying carrier or Carrier of Last Resort. If the Utility uses its own facilities to provide Basic Service, the arrangements must include notice to affected customers of the Utility's plans for Transfer of the customers to another carrier. (See Industry Rules 3.1, 8.6.)

8.6 Transfer

8.6.1 Transfer of GRC-LEC or URF ILEC

Commission approval for the Transfer of a GRC-LEC, or an URF Carrier that is an incumbent local exchange carrier, must be requested by application jointly submitted by the transferor and proposed transferee. See Rule 3.6 of the Commission's Rules of Practice and Procedure.

8.6.2 Transfer of Interexchange or Competitive Local Carrier

Commission approval for the Transfer of an interexchange carrier or competitive local carrier may be requested by advice letter submitted by the proposed transferee. If the proposed transferee does not have authority from the Commission to operate as a Utility, the transferee must either (1) register to operate as an interexchange carrier (using the registration form available at the Commission's Internet site), or (2) file an application to operate as a competitive local carrier and in the application request approval of the Transfer. The application must include a financial statement, which may be submitted under seal together with a request for confidential treatment (see General Rule 9), demonstrating that the transferee has sufficient assets to operate through the transition period.

8.6.3 Transfer of Commercial Mobile Radio Service Provider

The transferee of a commercial mobile radio service provider must submit an information-only filing setting forth changes in the provider's registration information.

8.7 Promotional Offering

A GRC-LEC may not submit an advice letter requesting approval of a Promotional Offering unless and until the Utility has received approval for its Promotional Platform.

Industry Rule 9. Notification of DBAs

If a Utility does business under a name other than the name under which it was granted operating authority by the Commission ("doing business as" or "DBA"), the Utility must list, as part of its preliminary statement (see General Rule 8.5.3), each name under which the Utility does business. The Utility must update this list, as necessary, by submitting an advice letter (see Industry Rule 7.1(1)). If a detariffed Utility does business under a name other than the name under which it was granted operating authority by the Commission, the Utility must inform the Commission by submitting an information-only filing with a list of all names under which the Utility does business. The detariffed Utility must update this list, as necessary, by information-only filing.

[Top of Page](#)



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL

Enclosed is the Application for a Connecticut Certificate of Public Convenience and Necessity to provide all types of telecommunications services except payphone service. For payphone service, use the application form for that service only.. Filing instructions are also enclosed. In particular, please note that the Department of Public Utility Control (Department) requires all filings to be submitted electronically in addition to hard copy.

When filing the Application, the following must be provided:

- Hard copy: one (1) original and seven (7) copies of the Application, including all Exhibits, Affidavits and any attachments. **(Exception: if the entire application (including exhibits) is filed electronically, only the paper original need be submitted.)**
- Electronic: one (1) copy of the Application, including all Exhibits, Affidavits and any attachments that the Applicant has in electronic form; and
- A filing fee of \$1,000 made payable to the Treasurer of the State of Connecticut. A notation on the check should indicate that it is for the Telcom CPCN Application Fee.

Please send the completed Application to Louise E. Rickard, Acting Executive Secretary, Department of Public Utility Control, Ten Franklin Square, New Britain, CT 06051. The Department will open a docket upon receipt of the Application.

If you need further information, please call the Department's Consumer Assistance and Information Unit at (860) 827-2622 or the Acting Executive Secretary at 860-827-2601.

FILING INSTRUCTIONS

- I. **WHERE TO FILE:** Send hard copies to Louise E. Rickard, Acting Executive Secretary, Department of Public Utility Control, Ten Franklin Square, New Britain, CT 06051.
- II. **WHAT TO FILE:** Submit one original hard copy as well as one electronic copy of the Application, Exhibits, Affidavits and any other attachments. The Department will accept electronic filings that are not complete (i.e., not all documents available electronically.) However, if the electronic copy is not complete, submit an additional eight hard copies.

All attachments, including Exhibits and Affidavits, should be clearly identified. For example, Exhibit A-9 should be marked, "Exhibit A-9: Director, Officer and Major Stockholder Information." All pages should be numbered and attached in sequential order, except for material for which protected treatment is sought (see below).

- III. **PROTECTED MATERIAL:** Place hard copies of any documents for which the applicant is seeking confidential treatment in a separate envelope marked "confidential," and include a motion for protective order, a proposed protective order, and an affidavit. Many examples of these documents can be found on our website under Docket Databases-Active Docket Database by searching for "protective order." Do not submit protected material in electronic form.
- IV. **ELECTRONIC FILING.** The preferred method is filing from our website: <http://www.dpuc.state.ct.us/ElectronicFiling/DPUCElectronicFiling.nsf>. Advance online registration is required (click on the link above, then Initial Registration.) Alternatively, e-mail the files to dpuc.executivesecretary@po.state.ct.us or submit IBM-formatted diskette(s) or a CD labeled with the company name, filing date, and if more than one, the number of the diskette (e.g., 1 of 1, 1 of 2).
- V. **QUESTIONS:** Questions regarding filing procedures should be directed to Louise Rickard, at (860) 827-2601 or louise.rickard@po.state.ct.us.

- VI. **GOVERNING LAW:** The granting of telecommunications certificates of public convenience and necessity is governed by Sections 16-247a through 16-247l of the General Statutes of Connecticut and Sections 16-247c-2 to 16-247c-5, and Sections 16-247g-1 through 16-247g-9, inclusive, of the Regulations of Connecticut State Agencies. These statutes and regulations are available on the Department's website under Statutes and Regulations.

Application for Telcom CPCN



State of Connecticut
Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051
Phone: (860) 827-1553; Main Fax: (860) 827-2613
<http://www.state.ct.us/dpuc>

TYPE OF APPLICATION

Check all that apply

- Reseller
- Facilities-based
- Intrastate Toll service
- Local Exchange service
- Other _____

A. APPLICANT INFORMATION

(A-1) Applicant's legal name, address and web site:

Name: _____
Address: _____ *Main Telephone:* _____
City, State, Zip: _____
Web site (if any): _____

(A-2) If any, Applicant's principal office in Connecticut:

Address: _____
City, State, Zip: _____
Main Telephone: _____ *Main Fax:* _____

(A-3) Contact person for regulatory matters:

Name: _____ *Title:* _____
Address: _____
City, State, Zip: _____
Telephone: _____ *Fax:* _____
E-mail Address: _____

(A-4) Applicant's agent for service in Connecticut:

Name: _____ *Company:* _____
Address: _____
City, State, Zip: _____
Telephone: _____ *Fax:* _____
E-mail address: _____

(A-4) Applicant's contact for Annual Reports:

Name: _____ *Company:* _____
Address: _____
City, State, Zip: _____
Telephone: _____ *Fax:* _____
E-mail address: _____

Application for Telecom CPCN

(A-5) Applicant's address and toll-free telephone number for customer service and complaints:

Name: _____ Title: _____
Address: _____
City, State, Zip: _____
Toll-free Telephone: _____ Fax: _____
E-mail address: _____

(A-6) Applicant's Federal Employer Identification Number (FEIN): _____

(A-7) Applicant's legal form of ownership:

- Corporation
 LLC
 LLP
 Other: _____

(A-8) Applicant was formed or organized on MM/DD/YY in (City), (State).

(A-9) **Exhibit A-9: Director, Officer, and Major Stockholder Information**

Provide a complete list of Applicant's officers, directors, partners or similar officers, and all stockholders with ownership exceeding five percent, including: (a) name; (b) job title; (c) business address; (d) business telephone number, and (e), percentage of stock owned. If Applicant is a subsidiary of another company, provide ownership information on the Parent.

(A-10) **Exhibit A-10: Business Registration in Connecticut**

Provide a copy of any business registration on file with the Connecticut Secretary of State, including but not limited to a Certificate of Authorization/Existence (short form, not express form).

(A-11) **Exhibit A-11: Articles of Incorporation or Organization and Bylaws**

Provide the following: (a) The articles of incorporation filed with the state or jurisdiction in which Applicant is incorporated and any amendments thereto; and (b) Applicant's bylaws and any amendments thereto. For LLCs and LLPs, provide the analogous Articles of Organization and bylaws, with any amendments.

(A-12) **Exhibit A-12: Corporate Structure**

Provide a chart or any similar graphical depiction of Applicant's entire corporate structure to clearly show: (a) the names of all Applicant's affiliates; (b) the relationship between all the affiliates; and (c) the names of all holding companies affiliated with Applicant.

(A-13) **Exhibit A-13: Violation of Consumer Protection Law**

Is Applicant currently under investigation, or has Applicant ever been fined, sanctioned or penalized, in any state for violation of any consumer protection law or regulation?

- Yes If yes, provide **Exhibit A-14: "Violation of Consumer Protection Law."** For each current investigation, provide all of the following: name of the state and agency conducting the investigation; date on which investigation began; description of the nature of the alleged violation; and status of the investigation. For each fine, sanction or penalty, provide all of the following: date of the fine, sanction or penalty; name of state and agency imposing the fine, sanction or penalty; description of the violation; description of the fine, sanction or penalty, including monetary amounts, if applicable; and copy of the order imposing the fine, sanction or penalty
- No

Application for Telecom CPCN

B. PROPOSED SCOPE OF SERVICE

(B-1) Exhibit B-1: Description of Proposed Services

Provide a brief description of the services proposed to be provided. In addition, provide proposed illustrative tariffs.

(B-2) Service Area

If applying to provide local exchange service, specify the geographic area for which authority to serve is sought:

- The ENTIRE state of Connecticut
 Labor Market Areas: _____

(B-3) Exhibit B-3: Operations in Other States

Does Applicant currently provide, or has Applicant ever provided, telecommunications services in another state?

- Yes If yes, provide **Exhibit B-3: Operations in other States**. For each state in which Applicant currently operates or has previously operated, provide all of the following: (a) status of Applicant's operations (e.g., active, inactive, pending); (b) copy of all decisions or orders of the agencies denying Applicant the authority to offer telecommunications services; (c) reasons for the cessation of Applicant's operations, if applicable; and (d) any other relevant information or materials.
- No

C. FINANCIAL CAPABILITY

(C-1) Exhibit C-1: "Applicant's Financial Statements"

- Applicant is a publicly-held company. Provide at least one of the following:
- (a) Applicant's two most recent annual reports to stockholders, which shall include balance sheet, income statement, cash flow analysis and notes to financial statements; or
 - (b) Applicant's two most recent filings made with the Securities and Exchange Commission, such as 10-K or 10-Q and 8-K filings. Also provide a complete copy of the Parent Company's last Form 10K as filed with the SEC, if applicable.
- Applicant is a privately-held entity. Provide each of the following:
- (a) Two most recent annual financial statements (audited if available), which shall include balance sheet, income statement, cash flow analysis and notes to financial statements; and
 - (b) Most recent quarterly financial statement, if available.

(C-2) Exhibit C-2 Tax Returns

Provide copies of all tax returns filed by Applicant during the last two years with the United States Internal Revenue Service and the Connecticut Department of Revenue Services.

(C-3) Exhibit C-3: Revenue Earned in Other States

For the five states in which Applicant has offered the proposed services the longest, provide the total intrastate revenue received from each service and the associated intrastate access charges paid to the local exchange company for the last calendar year.

(C-4) Exhibit C-4: Projected Number of Subscribers and Related Data

For each service for which Applicant is seeking authorization, separately provide the estimated number of subscribers by residential and business lines subscribed for the next three years. Also provide any forecasts filed with state public utility commissions in any of the five states referenced in C-3 above relative to revenues, customers, minutes of use and access lines expected from these services.

Application for Telecom CPCN

(C-5) Separate Books and Records

If granted a Connecticut certificate of public convenience and necessity to provide telecommunications services, will Applicant maintain separate books and records for Connecticut operations?

- Yes
 No

(C-6) Timing of Provision of Local Service

If Applicant is seeking to provide local exchange service, state whether it will provide service to all customers requesting local exchange service within five years from the date of certificate issuance.

- Yes
 No

(C-7) Unauthorized Provision of Service

If Applicant is currently providing intrastate services in Connecticut, provide the date service began and the total revenues accrued in the period prior to receiving a Connecticut certificate of public convenience and necessity.

Date service began: _____

Revenues accrued: _____

(C-8) Required Bond

If granted a certificate of public convenience and necessity to provide local exchange service, will the Company provide proof of a bond as required in the Decision dated April 2, 2000 in Docket No. 01-12-10, DPUC Investigation into the Discontinuation of Telecommunications Services by Certified Telecommunications Service Providers and the Decision dated May 5, 2004 in Docket No. 01-12-10RE01.

- Yes
 No

D. TECHNICAL CAPABILITY

(D-1) Exhibit D-1: Technical Qualifications

Provide an exhibit demonstrating Applicant's technical qualifications.

(D-2) Exhibit D-2: Facilities-Based Provider's Capital/Construction Plan and Budget

If applying as a facilities-based provider, provide a one year capital/construction plan and budget explaining Applicant's plans to construct and/or lease facilities in this state. Detail the equipment, labor, and associated expenses that will be involved.

(D-3) Exhibit D-3: Reseller's Underlying Carrier(s)

If applying as a reseller, separately identify each underlying carrier the services/facilities of which Applicant proposes to resell or use in the provisioning of its proposed intrastate services in Connecticut and summarize the status of Applicant's agreements/negotiations with those carriers regarding the provision of those services in Connecticut. Indicate if each such carrier is certificated to provide these services in Connecticut.

(D-4) Exhibit D-4: Reseller's Operator Service Agreements

If applying as a reseller, what operator service agreements does Applicant have in place for calls within Connecticut? If none, when does Applicant expect to have intrastate operator service agreements in place and with whom?

Application for Telcom CPCN

- (D-5) Exhibit D-5: Other Relevant Information Concerning Technical Capability**
Provide any other information that would demonstrate Applicant's technical ability or fitness to provide the proposed services.

E. MANAGERIAL CAPABILITY

- (E-1) Exhibit E-1: Background in Telecommunications Industry**
Provide a detailed summary of Applicant's background in the telecommunications industry.
- (E-2) Exhibit E-2: Resumes of Officers**
Provide the following: (a) a list of the names of all officers directly responsible for Applicant's operations, including a description of each officer's job title and duties and responsibilities; and (b) each officer's professional resume.
- (E-3) Exhibit E-3: Other Relevant Information Concerning Managerial Capability**
If available, provide any other information or documentation that would demonstrate Applicant's managerial ability or fitness to provide the services proposed.

F. CUSTOMER SERVICE

- (F-1) Exhibit F-1: Customer Service Plan**
Provide copy of Applicant's Connecticut customer service plan, which shall address each of the following:
(a) customer security deposit procedures and requirements;
(b) customer complaint handling and dispute resolution procedures;
(c) customer termination procedures;
(d) customer rights and responsibilities; and
(e) disclosure of customer information procedures.
- (F-2) Exhibit F-2: Affirmative Customer Selection Procedures**
Provide a description of the actions that Applicant will take to ensure that new customers affirmatively select the Applicant, confirming paperwork and description of sales agents' training and supervision. If applicable, include a copy of the Letter of Authorization.
- (F-3) Exhibit F-3: Customer Complaint Data**
For each state in which Applicant provides service, indicate the number of complaints (by type) that have been filed with Applicant and with each state's public utilities commission annually for the last four calendar years.
- (F-4) Exhibit F-4: Sample Contract**
If applicable, provide a sample contract for a service arrangement for a Connecticut customer.
- (F-5) Exhibit F-5: Sample Bill**
Provide a sample copy of Applicant's bill as it would be sent to a Connecticut customer.
- (F-6) Billing Entity**
Will Applicant perform all its own billing for the proposed services in Connecticut?
 Yes
 No If no, indicate what entity will bill on Applicant's behalf: _____

Application for Telcom CPCN

(F-7) Bill Message

Indicate if Connecticut customer bills will include the following message:

"If you remain dissatisfied with our resolution of your complaint, you may contact the Department of Public Utility Control, Consumer Assistance, Ten Franklin Square, New Britain, CT 06051. The Department may also be reached toll-free within Connecticut at 1-800-382-4586 or (860) 827-2622 from out of state.

Yes

No

G. STATE POLICY GOALS

(G-1) Exhibit G-1: State Policy Goals

Explain how the issuance of a Certificate of Public Convenience and Necessity to the Applicant will satisfy the goals of § 16-247a of the General Statutes of Connecticut (Conn. Gen. Stat.). In particular, separately explain how the Applicant's intrastate provision of service will: (1) ensure the universal availability and accessibility of high quality affordable telecommunications services to all residents and businesses in the state; (2) promote the development of effective competition as a means of providing customers with the widest possible choice of services; (3) utilize forms of regulation commensurate with the level of competition in the relevant telecommunications service market; (4) facilitate the efficient development and deployment of a telecommunications infrastructure, including open networks with maximum interoperability and interconnectivity; (5) encourage shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible; and (6) ensure that providers of telecommunications services in the state provide high quality customer service and high quality technical service.

H. OTHER INFORMATION OR MOTIONS

(H-1) Does this application contain material that the Applicant seeks to keep confidential pursuant to Connecticut's Freedom of Information Act?

Yes File a motion for protective order according to the procedures explained under Filer Info on the Department's website. (Submit an original and 9 copies of the motion separately collated from the application.)

No

(H-2) Does this application contain requests for waivers of any requirements?

Yes Attach an original and 9 copies of any such motion separately collated from the application.

No

(H-3) Is additional information attached?

Yes If so, explain _____.

No

Application for Telcom CPCN

AFFIDAVIT #1
"Veracity of Statements"

State of _____ :
: _____ ss.
(Town)

County of _____ :

_____, Affiant, being duly sworn/affirmed according to law, deposes and says that:

He/she is the _____ (Office of Affiant) of _____ (Name of Applicant);

That he/she is authorized to and does make this affidavit for said Applicant;

That _____, the Applicant herein, certifies under penalty of false statement that all statements made in the application for licensure are true and complete and that it will also amend its application while the application is pending if any substantial changes occur regarding the information provided in the application within ten days of any such change.

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

Signature of Affiant

Sworn and subscribed before me this _____ day of _____, _____.
Month Year

Signature of official administering oath

Print Name and Title

My commission expires _____.

Application for Telcom CPCN

AFFIDAVIT #3
"Full Cooperation in the Event of an Emergency"

State of _____ :
: _____ ss.
(Town)

County of _____ :

_____, Affiant, being duly sworn/affirmed according to law, deposes and says that:

He/she is the _____ (Office of Affiant) of _____ (Name of Applicant);

That he/she is authorized to and does make this affidavit for said Applicant;

That _____, the Applicant herein, attests that it will cooperate fully with the Department of Public Utility Control, and other telecommunications companies in the event of an emergency condition that may jeopardize the safety and reliability of telecommunications service in accordance with emergency plans and other procedures as may be determined appropriate by the Department.

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

Signature of Affiant

Sworn and subscribed before me this _____ day of _____, _____.
Month Year

Signature of official administering oath

Print Name and Title

My commission expires _____.
(For Notary Publics only)

Application for Telcom CPCN

AFFIDAVIT #4
“Non-Divulgence of Unauthorized Customer Information”

State of _____ :
: _____ ss.
(Town)

County of _____ :

_____, Affiant, being duly sworn/affirmed according to law, deposes and says that:

He/she is the _____ (Office of Affiant) of _____ (Name of Applicant);

That he/she is authorized to and does make this affidavit for said Applicant;

That _____, the Applicant herein, attests that it will not release customer information to any person, as that term is defined in section 16-1 of the General Statutes of Connecticut, unless the customer signs a release. For purposes of this affidavit, “customer information” means customer-specific information that the provider acquired or developed in the course of providing services and includes, but is not limited to information that relates to the quantity, time of use, type and destination of telecommunications service, information contained in bills and other customer-specific data.

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

Signature of Affiant

Sworn and subscribed before me this _____ day of _____, _____.
Month Year

Signature of official administering oath Print Name and Title

My commission expires _____.
(For Notary Publics only)

Frequently Asked Questions Regarding the \$25,000 Surety Bond Required of CLECs

Does the Department require a specific form for the bond?

No. The form used by the company providing the bond is acceptable.

Can I see bonds posted by other CLECs?

Yes. Many of them are posted on our website under Docket 01-12-10RE01 as compliance filings. Note that some of them are riders reducing the amount of the bond filed previously in Docket 01-12-10RE01, but others are new filings. Here's a link to Docket 01-12-10RE01:

<http://www.dpuc.state.ct.us/dockhist.nsf/Web+Main+View/Search+Telcom?OpenView&StartKey=01-12-10RE01>

More recently, bonds have been posted in our Undocketed Database. Here's a link to that:

<http://www.dpuc.state.ct.us/DPUCUndocketed.nsf?OpenDatabase>

Does the Department accept any other form of security, such as a letter of credit?

No. Only a bond is acceptable.

I'm having trouble finding a bond. What can I do?

We suggest checking with the companies that have issued bonds for other telcom providers, as posted in Docket 01-12-10RE01. Based on its experience with requiring payphone companies to submit bonds, the Department believes that even small CLECs will be able to comply with this requirement. In 2004, the Department reduced the amount of the bond from \$50,000 to \$25,000. If all else fails, however, write a letter to the Department explaining the situation.

How can I get more time to submit the bond?

Simply write a letter to the Department, citing the docket number of the case in which the order was given, and request an extension of time to comply with the requirement. Explain why you need more time and specify the date by which you expect you will be able to comply. If you web file the letter, submit it as a motion. For more information on filing procedures, contact the Executive Secretary's Office at 860-827-1553 or dpuc.executivesecretary@po.state.ct.us.

Where can I find more information about the bond requirement?

See the Department's Decision dated May 5, 2004, in Docket 01-12-10RE01 and the Decision dated April 2, 2003, in Docket 01-12-10.

Sec. 16-247a. Goals of the state. Definitions. (a) Due to the following: Affordable, high quality telecommunications services that meet the needs of individuals and businesses in the state are necessary and vital to the welfare and development of our society; the efficient provision of modern telecommunications services by multiple providers will promote economic development in the state; expanded employment opportunities for residents of the state in the provision of telecommunications services benefit the society and economy of the state; and advanced telecommunications services enhance the delivery of services by public and not-for-profit institutions, it is, therefore, the goal of the state to (1) ensure the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state, (2) promote the development of effective competition as a means of providing customers with the widest possible choice of services, (3) utilize forms of regulation commensurate with the level of competition in the relevant telecommunications service market, (4) facilitate the efficient development and deployment of an advanced telecommunications infrastructure, including open networks with maximum interoperability and interconnectivity, (5) encourage shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible, and (6) ensure that providers of telecommunications services in the state provide high quality customer service and high quality technical service. The department shall implement the provisions of this section, sections 16-1, 16-18a, 16-19, 16-19e, 16-22, 16-247b, 16-247c, 16-247e to 16-247i, inclusive, and 16-247k and subsection (e) of section 16-331 in accordance with these goals.

Sec. 16-247g. Certificate of public convenience and necessity for intrastate telecommunications services: Application, requirements, suspension, revocation. Fees. Obligation to serve. (a)(1) Any person may apply to the department for an initial certificate of public convenience and necessity to offer and provide intrastate telecommunications services. Such application shall include such information as the department shall require, and any reasonable fees, not to exceed actual cost, the department may prescribe, in regulations adopted pursuant to chapter 54. The department may issue such certificate and may, as a precondition to certification, require any applicant to procure a performance bond sufficient to cover moneys due or to become due to other telecommunications companies for the provision of access to local telecommunications networks, to protect any advances or deposits it may collect from its customers if the department does not order that such advances or deposits be held in escrow or trust, and to otherwise protect customers. Following receipt of such application, the department shall give notice of such application to all interested persons. The department may approve or deny the application after holding a hearing with notice to all interested persons if any person requests such hearing.

(2) Any person may object to a fee charged pursuant to this section by filing with the department, not later than thirty days after the fee was charged, a petition stating the amount of the fee charged to which it objects and the grounds upon which it claims such fee is excessive, erroneous, unlawful or invalid. Upon the request of the person filing the petition, the department shall hold a hearing. After reviewing the petition and testimony, if any, the department shall issue its order in accordance with its findings. The person shall pay the department the amount indicated in the order not later than thirty days after the date of the order.

(b) A certified telecommunications provider may petition the department to expand the authority granted in its certificate of public convenience and necessity to the provision of a previously-authorized service in an additional service area or to the provision of a service not previously authorized, or to both. Such petition shall include such information as the department shall require by regulations adopted pursuant to chapter 54. The department may expand the authority granted in such a certificate and may, as a precondition to such expansion, require a petitioner to procure a performance bond sufficient to cover moneys due or to become due to other telecommunications companies for the provision of access to local telecommunications networks, to protect any advances or deposits it may collect from its customers if the department does not order that such advances or deposits be held in escrow or trust, and to otherwise protect customers. Following receipt of such petition, the department may, on petition or its own motion, hold a hearing with notice to all interested parties, after which the department may approve or deny the application.

(c) The department may certify an applicant if the applicant: (1) Provides the information requested by the department pursuant to the provisions of sections 16-247f to 16-247h, inclusive, and section 16-247j; (2) provides a performance bond or complies with escrow or trust requirements, if required by the department; (3) provides a fee, if required by this section; and (4) possesses and demonstrates adequate financial resources, managerial ability and technical competency to provide the proposed service.

(d) Any certified telecommunications provider and any telephone company shall (1) maintain its accounts in such manner as the department shall require; (2) file financial reports at such times and in such form as the department shall prescribe; (3) file with the department such current descriptions of services and listings of rates and charges as it may require; (4) cooperate with the department in its investigations of consumer complaints and comply with any resulting orders; (5) comply with standards established pursuant to section 16-247p; and (6) comply with additional requirements as the department shall prescribe by regulation.

(e) Except as provided in subsection (f) of this section, on or after July 1, 2001, each certified telecommunications provider shall, within a period of time the department determines is reasonable after

said provider is certified, be obligated to serve a residential or business customer in its authorized area of operation who is seeking from said provider telecommunications services that are provided by said provider.

(f) Any community antenna television company that is a certified telecommunications provider or an affiliate of a community antenna television company that is a certified telecommunications provider and that provides telecommunications services shall be obligated to serve all residential and business customers seeking local exchange service in its entire franchise area in which said company provides community antenna television services pursuant to section 16-331. Notwithstanding the provisions of this section, the department shall not require any such company to provide local exchange service outside of its franchise area. If, however, any such company elects to provide local exchange service to customers outside its franchise area, such company shall be subject to all geographic service requirements established by the department.

(g) Notwithstanding any decision of the department to allow the competitive provision of a telecommunications service or to grant a certificate pursuant to this section, the department, after holding a hearing with notice to all interested parties and determining that (1) continued competitive provision of a telecommunications service would be contrary to the goals set forth in section 16-247a, or would not be in accordance with the provisions of sections 16-247a to 16-247c, inclusive, section 16-247e or 16-247f, this section, or section 16-247h, or 16-247k, (2) a certified telecommunications provider does not have adequate financial resources, managerial ability or technical competency to provide the service, or (3) a certified telecommunications provider has failed to comply with an applicable order made or regulation adopted by the department, may suspend or revoke the authorization to provide said telecommunications service or take any other action it deems appropriate. In determining whether to suspend or revoke such authorization, the department shall consider, without limitation, (A) the effect of such suspension or revocation on the customers of the telecommunications service, (B) the technical feasibility of suspending or revoking the authorized usage only on an intrastate basis, and (C) the financial impact of such suspension or revocation on the provider of the telecommunications service.

(h) The department shall remit all fees collected under this section to the State Treasurer for deposit in the Consumer Counsel and Public Utility Control Fund established in section 16-48a.

(i) On October first, annually, the department shall submit to the joint standing committee of the General Assembly having cognizance of matters relating to energy and technology a report of all fees collected pursuant to this section during the preceding fiscal year.

(P.A. 87-415, S. 4, 13; P.A. 93-330, S. 5, 9; P.A. 94-83, S. 7, 16; P.A. 95-86, S. 1, 2; P.A. 99-222, S. 11, 19; P.A. 02-98, S. 1.)

History: P.A. 93-330 amended Subsec. (d) by making hearing mandatory rather than permissive, adding provisions regarding competition's impact on cost and determination of a provider's resources, ability and competency, allowing suspension of authorization or other action, and stating factors to consider before suspending or revoking authorization, effective July 2, 1993; P.A. 94-83 amended Subsec. (a) by replacing "interexchange telecommunications services authorized under section 16-247f" with "intrastate telecommunications services" and changing "local exchange networks" to "local telecommunications networks", amended Subsec. (b) by changing bases for denying certification to requirements for certifying an applicant and deleting reference to Sec. 16-247c, amended Subsec. (c) by deleting "intrastate interexchange" and changing "service" to "services", amended Subsec. (d) by replacing "open a telecommunications service to competition pursuant to section 16-247f" with "allow the competitive provision of a telecommunications service", replaced provision re service open to competition impairing universal service or impacting cost of service with Subdiv. (1) re goals set forth

in Sec. 16-247a and provisions of Secs. 16-247a to 16-247c, 16-247e, 16-247f, this section, 16-247h and 16-247k, adding Subdiv. (3) re department orders and regulations, and relettering Subdivs. (1) to (3) as Subparas. (A) to (C), effective July 1, 1994; P.A. 95-86 amended Subsec. (a) by designating existing provisions as Subdiv. (1), adding "an initial", provision re fees, and "and to otherwise protect customers" in Subdiv. (1) and adding Subdiv. (2) re objection to fees charged, added new Subsec. (b) re petitions for expanded authority, relettered Subsecs. (b) to (d) as (c) to (e), amended Subsec. (c) by adding provision re fee, and added new Subsecs. (f) and (g) re remittance and report of fees, effective May 31, 1995; P.A. 99-222 made technical changes, changed references to person, firm or corporation certified to provide telecommunications services in Subsecs. (b) and (d) to "certified telecommunications provider", inserted new Subsec. (e) requiring each certified telecommunications provider to serve residential and business customers in its authorized area, inserted new Subsec. (f) requiring community antenna television companies to serve all residential and business customers in its franchise area and relettered former Subsecs. (e) to (g) as (g) to (i), respectively, effective June 29, 1999; P.A. 02-98 amended Subsec. (a)(1) to replace requirement for the department to hold a hearing on an application and provide notice to all interested parties with requirement for the department to give notice of an application to interested persons and, if requested, to hold a hearing on the application with notice to all interested persons

Your Search...

SEARCH

Phone Numbers

Mobile

Help

Size

Print

Email

Department of State : Delaware Public Service Commission

HOME

About the PSC
Commissioners
Calendar/Agenda
Newsroom
FAQs
Employment
Related Links
Contact Information
Office Location
Agency Site Map

SERVICES

Search
Consumer Assistance
File a Complaint
Public Notices
RFPs
Speakers Bureau

INFORMATION

Cable
Digital TV Transition
Electric
Electric Choice
Revenue Decoupling
Delaware RPS
Delmarva Power IRP
IRP Regulations
Delmarva Power SOS
Natural Gas
Telecommunications
Water
Wastewater
Legal Matters
Orders
Filings

**COMPETITIVE LOCAL EXCHANGE CARRIERS (CLECs)**

To provide local exchange telecommunications service in the State of Delaware, carriers must apply for and be granted a Certificate of Public Convenience and Necessity ("CPCN") by the Commission. Specific requirements are contained in the revised **Regulations Governing Intrastate Telecommunications Services and Competitive Local Exchange Carriers**, approved by the Commission in [PSC Order No. 5833](#), signed November 6, 2001. These regulations combine and revise rules initially developed in two separate proceedings, PSC Regulation Dockets No. 10 and No. 45. The Commission has also created a checklist to assist carriers with completion of their CPCN application.

On August 9, 2005, in [PSC Order No. 6690](#), the PSC proposed to amend Regulations 10 and 45 to allow telecommunications carriers to submit irrevocable stand-by Letters of Credit as a substitute for the filing of surety bonds currently required under Rule 4(f)(i) & (ii). An additional amendment to Rule 10 will also allow a "qualified carrier," one with less than \$2,500,000 in annual gross intrastate revenues in the preceding year in certain cases, to forego filing most of the financial, merger, and transfer of control applications now required by 26 Del. C. Sections 215(a) & (b). These amendments were adopted by the Commission on February 7, 2006, by PSC Order No. [6839](#), effective March 10, 2006.

- [CPCN checklist for CLECs](#)
- [Competitive Local Exchange Carriers](#) - Includes approved, conditional and pending CPCN applications. *Note: Because a CLEC is approved to serve, it does not mean that it is currently serving customers.* [Last updated 01/01/07]
[Toll Free Customer Service Numbers](#)

Last Updated: Thursday, 22-Mar-2007 13:49:53 EDT

[site map](#) | [about this site](#) | [contact us](#) | [translate](#) | [delaware.gov](#)

**CHECKLIST FOR A COMPETITIVE LOCAL EXCHANGE CARRIERS
CPCN APPLICATION**

Applicant

Date Filed

CPCN Effective Date

Contact Name

Customer Service Telephone No.

1. Authority to do Business in Delaware from Secretary of State

2. Registered Agent

3. Financial Statements (If reseller, all applicants must possess a minimum of \$25,000 of cash or cash equivalents, reasonably liquid and readily available to meet the firm's start-up costs. If facilities based, a minimum of \$100,000 of cash or cash equivalents, etc. Cash equivalents can include cashier's checks, sight drafts, performance bond proceeds, or traveler's checks. Other liquid assets can include certificates of deposits, preferred stock proceeds or other corporate shareholder equity, letter of credit, or loans issued by a qualified subsidiary, affiliate of applicant, or a qualified corporation holding controlling interest in the applicant, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission and payable on an interest-only basis for the same period, or a financial guarantee.

4. Has the Company provided a \$50,000 Bond With Delaware Surety?

5. Has Company Published Notice In The News Journal & Delaware State News and provided affidavits of publication?

6. Has Company provided a plan for identifying and billing intrastate vs. interstate traffic?

7. A list of states where Company already provides service? pending?

8. Description of proposed business in Del. and other states.

9. Description, including location, of the applicant's facilities or where it intends to provide its proposed services in the next 3 years.

10. Relevant operational experience of each principal officer responsible for DE operations.

11. Description of engineering and technical expertise showing qualifications of personnel.

12. Tariff Sheets or price lists - Illustrative ones filed with application. Final ones at effective date.

13. Books and Records - Where are they located. Need Waiver?

14. Uniform System of Accounts - Do they follow Generally Accepted Accounting Principles?

15. Does the Company have a Commission approved Interconnection Agreement with Verizon - Delaware?

16. Has the Company filed its dialing parity plan, if it proposes to offer voice services?

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE SALE, RESALE,)
AND OTHER PROVISIONS OF INTRASTATE)
TELECOMMUNICATIONS SERVICES) PSC REGULATION DOCKET NO. 10
(OPENED MAY 1, 1984; REOPENED)
NOVEMBER 17, 1998; REOPENED)
JULY 24, 2001))

IN THE MATTER OF THE DEVELOPMENT OF)
REGULATIONS FOR THE FACILITATION OF)
COMPETITIVE ENTRY INTO THE TELECOM-) PSC REGULATION DOCKET NO. 45
MUNICATIONS LOCAL EXCHANGE SERVICE)
MARKET (OPENED NOVEMBER 21, 1995;)
REOPENED NOVEMBER 17, 1998; REOPENED)
JULY 24, 2001))

FINDINGS, OPINION, AND ORDER NO. 5833

A. BACKGROUND

1. In PSC Order No. 5767 (July 24, 2001), the Public Service Commission ("Commission") reopened Regulation Dockets Nos. 10 and 45 (as captioned above) in order to consider certain amendments to its *Rules For The Provision of Competitive Intrastate Telecommunications Services* ("Rules"), as proposed by Commission Staff. The proposed amendments address Staff's concerns regarding the application and bonding requirements for certification of competitive local exchange carriers and intrastate carriers. In addition, the proposed amendments reflect certain changes that have occurred in federal and state telecommunications laws.

2. By Order No. 5767, the Commission assigned the reopened dockets to a Hearing Examiner and directed the Commission Secretary

to publish public notice of the reopening of the proceeding.¹ (Exhibit No. 1.) The public notice also included a deadline of August 31, 2001, for the filing of initial comments.

3. Verizon Delaware Inc. ("Verizon") and AT&T Communications of Delaware, Inc. ("AT&T") filed initial comments in support of Staff's proposed amendments to the regulations. (Exhibits Nos. 4 and 5, respectively.) The Association of Communications Enterprises ("ASCENT") filed comments objecting to the bonding requirement (proposed Rule 4(f)(i)) and requesting the addition of a waiver provision for financially viable carriers. (Exhibit No. 6.) The Cable Telecommunications Association of Maryland, Delaware & District of Columbia did not file comments but notified the Commission of its intent to participate in the proceeding. (Exhibit No. 7.) No other entity filed comments or requested participation in the proceedings.

4. Because the initial comments raised only one issue, which already had been addressed in the 2000 proceeding,² the Hearing Examiner established an abbreviated schedule. That schedule included an allowance for rebuttal comments, a proposed decision by

¹ The Commission Secretary caused notice of the proposed revised rules to be published in the *Register of Regulations*, on August 1, 2001, as required by 29 Del. C. § 10115. In addition, the Commission Secretary mailed notice to: (1) all prior participants in PSC Regulation Dockets 10 and 45; (2) all persons who have made timely requests for advance notice of such proceedings; and (3) the Division of the Public Advocate.

² Exhibit No. 6 at 1.

the Hearing Examiner, an exceptions period, and a single hearing to be conducted directly before the Commission, on November 6, 2001.

5. Pursuant to the procedural schedule, Staff submitted rebuttal comments on October 3, 2001. (Exhibit No. 3.) No other participant filed rebuttal comments. An ASCENT representative, however, informed the Hearing Examiner, by telephone, that ASCENT did not intend to participate in the November 6, 2001 hearing.

6. On November 6, 2001, the Commission conducted a hearing, pursuant to 26 Del. C. § 209(a). Staff moved into the record the affidavits of publication of notice (Exhibit No. 1), its proposed rules (Exhibit No. 2), and its rebuttal comments (Exhibit No. 3), as well as the initial comments of the other participants (Exhibits Nos. 4 through 7.) No member of the public offered any comments at the hearing.

B. SUMMARY OF THE PROPOSED AMENDMENTS

7. Under Part A of the Rules, which is entitled "Certification and Regulation of Carriers," Staff proposes changes to Rule 4(b) and Rule 4(f)(i). Rule 4(b) governs applications from intrastate or local exchange carriers for a Certificate of Public Convenience and Necessity ("CPCN"), which authorizes such providers to offer service in Delaware. Staff proposes to add the following language to Rule 4(b):

If the applicant fails to provide the required information and exhibits within six months of the application, the Commission may take action to close this docket and the applicant will forfeit its application fee.

(Exhibit No. 2, at 8.)

8. Staff proposes the Rule 4(b) change in order to place a time constraint on an applicant's response to deficiency letters from Staff. (Exhibit No. 3 at 2.) According to Staff, it spends an inordinate amount of time following up on the failure of some applicants to respond to deficiency letters. *Id.*

9. Current Rule 4(f)(i) requires applicants with assets totaling less than \$250,000 to post a \$10,000 performance bond, which must be renewed annually. Staff seeks to change the bonding requirement to include all applicants, regardless of their size. (Exhibit No. 2 at 10.) The bonding requirement ensures that there are funds available to cover advance payments made by customers, as well as abandonment fees that are due when a carrier declares bankruptcy or abandons service. (Exhibit 3 at 3.) Because telecommunications providers of all sizes are at risk to declare bankruptcy, or abandon service, Staff wishes to apply the bonding requirement to all carriers.

10. The remaining proposed revisions serve to update Part B, "Customer Election of Preferred Carrier," to reflect changes that have occurred in federal and state telecommunications laws. (Exhibit No. 2 at 25-40.) The proposed revisions to Rules 15, 16, 17, and 18, which relate to changing a customer's preferred carrier, ensure that the Commission does not have to update its Rules every time the Federal Communications Commission ("FCC") makes a change to its rules. When the Commission last approved the Rules, in PSC Order No. 5521 (August 15, 2000), Part B mirrored the FCC rules. Since that time, however, changes have been made to the FCC rules.

With the proposed revisions, the Delaware *Rules* will simply cite the corresponding section of the FCC rules. In addition, Staff deleted certain definitions under Rule 13 for terms that are no longer used in the proposed *Rules*.

11. Staff also proposes a revision to Rule 19(d), "Refund and Penalties." Currently, Rule 19(d) *allows* the Commission to require a carrier, who has caused an unauthorized change in a customer's choice of carrier (*i.e.*, "slamming"), to refund any charges that result from the unauthorized change. The proposed rule *mandates* that the Commission require a refund under such circumstances, as provided in 26 Del. C. § 924(c). In addition, the proposed Rule 19(d) refers to the FCC's slamming rules and provides that the Commission's remedies are in addition to those included in the FCC's rules.

C. SUMMARY OF THE COMMENTS

12. In a one-page letter, Verizon indicated that it supports the proposed revisions. (Exhibit No. 4.) In particular, Verizon noted that by simply citing the FCC Rules, the Commission will ensure that Delaware rules will change in concert with changes to the FCC rules, without having to expend state resources to effect each change. Verizon also asserted that the references to the FCC rules will ensure that the Commission's rules are consistent with the FCC rules and that carriers, therefore, would not have to comply with two sets of potentially different rules.

13. Also in a one-page letter, AT&T indicated that it supports Staff's recommendations and noted that the references to

the FCC rules in the proposed *Rules* make Delaware's "slamming" provisions consistent with the FCC's. (Exhibit No. 5.)

14. In its initial comments, ASCENT objected to the bonding requirement under proposed Rule 4(f)(i). (Exhibit No. 6.) ASCENT urged the Commission to include a provision that would allow a company to seek a waiver of the bonding requirement once the company is able to demonstrate financial viability and responsible customer service for a sustained period of time. ASCENT argued that the proposed revision to the bonding requirements aggravates the current problems that carriers have with the bonding rules by retaining the perpetual bonding requirement on smaller carriers while imposing a new bonding requirement on the larger carriers. According to ASCENT, a waiver provision would alleviate the current problems.

15. In its rebuttal comments, Staff argued that the bonding requirement serves many purposes and that a waiver provision would not be appropriate. (Exhibit No. 3.) The bond protects the customers' advance payments in the event that a carrier declares bankruptcy or abandons service in Delaware. In addition, the bonding requirement may serve to discourage carriers from seeking certification when they do not intend to provide service to Delawareans. *Id.* According to Staff, a number of companies have filed applications just so they can proclaim that they are certified in all fifty states, even though they have no intention of providing service in Delaware.

16. In addition, Staff noted that the bond ensures collection of the statutory \$150 abandonment fee, which is due the Commission

upon abandonment of service. *Id.* As of the filing of its rebuttal comments, Staff asserted that thirty-six companies had abandoned service in Delaware in 2001. Since 1998, the Commission has processed 162 applications to abandon service. Frequently, the Commission is unable to collect abandonment fees, especially when a company files for bankruptcy. *Id.*

17. Staff argued that a waiver for companies that are financially viable would be inappropriate because a company that is financially viable today may fail in the future. *Id.* As an example, Staff cited the stock price of Winstar Communications, Inc., which dropped from its high of \$54.63 in 2000 to 14 cents in April 2001, when it filed for bankruptcy protection.

D. FINDINGS AND OPINION

18. The Commission has the authority and jurisdiction to promulgate and amend regulations under 26 Del. C. § 209(a) and 29 Del. C. § 10111 et seq.

19. Pursuant to 26 Del. C. § 209(a), the Commission may fix “just and reasonable” regulations governing any public utility. For the reasons provided by Staff, and summarized above, the Commission determines that all of the proposed revisions to the *Rules* (Exhibit No. 2) are just and reasonable.

20. With one exception, the participants in this docket support all of the proposed revisions. As outlined above, ASCENT objects to the proposed bonding requirement, which would apply to all applicants, rather than just those with less than \$250,000 in

assets. ASCENT recommended a waiver provision that would apply to those carriers that could demonstrate sustained financial viability.

21. Staff, however, argued that the larger applicants, including those that are financially viable at the time of the application, are also at risk for either bankruptcy or for abandonment of service in Delaware. The protection that a bond offers, therefore, is necessary for even the larger carriers and, consequently, no waiver for carriers who demonstrate financial viability is appropriate. The Commission agrees with Staff and, therefore, accepts Staff's proposed bonding requirement and denies ASCENT's request for a waiver provision.

E. ORDERING PARAGRAPHS

Now, therefore, this 6th day of November, 2001, **IT IS ORDERED:**

1. That the Commission adopts the *Rules for the Provision of Telecommunications Services*, as amended, the exact text and citation of which are attached hereto as Exhibit "A."

3. That the Secretary shall transmit this Order, together with the exact text of the *Rules for the Provision of Telecommunications Service* to the Registrar of Regulations for Publication on December 1, 2001.

4. That the effective date of this Order shall be the later of December 10, 2001, or ten days after the date of publication in the *Register of Regulations* of the final text of the *Rules for the Provision of Telecommunications Services*.

5. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Donald J. Puglisi
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Joann T. Conaway
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

E X H I B I T "A"

PUBLIC SERVICE COMMISSION OF DELAWARE
RULES
FOR THE PROVISION OF
TELECOMMUNICATIONS SERVICES

Effective: December 10, 2001

**PART A
CERTIFICATION AND REGULATION OF CARRIERS**

Rule 1. Definitions.

- (a) Rules shall mean these Rules, including PARTS A and B, governing the provision of telecommunications services in Delaware.
- (b) Carrier shall mean any person or entity offering to the public Telecommunications service that originates or terminates within the State of Delaware. The term "Carrier" does not include:
 - (i) any political subdivision, public or private institution of higher education or municipal corporation of this State or operated by their lessees or operating agents that provides telephone service for the sole use of such political subdivision, public or private institution of higher learning or municipal corporation;
 - (ii) a company that provides telecommunications services solely to itself and its affiliates or members or between points in the same building, or between closely located buildings which are affiliated through substantial common ownership and does not offer such services to the available general public;
 - (iii) providers of domestic public land mobile radio service provided by cellular technology excluded from the Commission's jurisdiction under 26 Del. C. § 202(c); and

- (iv) Payphone service providers regulated by this Commission under Rules promulgated in Regulation Docket No. 12.
- (c) CPCN shall mean a Certificate of Public Convenience and Necessity issued by the Commission.
- (d) Commission shall mean the Public Service Commission of Delaware.
- (e) Competitive Local Exchange Carrier ("CLEC") shall mean a Carrier, other than the Incumbent Local Exchange Carrier, offering and/or providing local telecommunications exchange services within the State of Delaware.
- (f) Incumbent Local Exchange Carrier ("ILEC") shall mean in Delaware Bell Atlantic-Delaware, Inc., and any successor thereto.
- (g) Facilities-based Carrier shall mean a Local Exchange Carrier that directly owns, controls, operates, or manages plant and equipment through which it provides local exchange services to consumers within the local exchange portion of the public switched network.
- (h) Local Exchange Carrier ("LEC") shall mean a Carrier offering and/or providing local telecommunications exchange services (i.e., CLECs and ILECs); including both facilities-based and non-facilities-based Carriers.
- (i) Local Telecommunications Exchange Service shall mean non-toll, intrastate Telecommunications Services provided over a Local Exchange Carrier's network,

including, but not limited to, exchange access services and basic local services.

(j) Resale shall mean the sale to an end user of any telecommunications service purchased from another Carrier.

(k) Telecommunications shall mean the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form and content of the information as sent and received.

(l) Telecommunications Service shall mean the offering of telecommunications for a fee directly to the public within the State of Delaware (originating or terminating within the State, without regard to how the Carrier decides to route the traffic), or to such classes of users as to be effectively available to the public, regardless of the facilities used.

"Telecommunications Service" does not include:

(i) the rent, sale, lease, or exchange for other value received, of customer premises equipment, except for specialized terminal equipment as defined in 48 U.S.C. § 610(g);

(ii) telephone or telecommunications answering services, paging services, and physical pickup and delivery incidental to the provision of information transmitted through electronic or electromagnetic media, including light transmission;

- (iii) The one-way distribution of entertainment services or informational services with no more than incidental customer interaction required for selection of such entertainment or information services; and
- (iv) Telecommunications service provided by either primary cellular technology or by domestic public land mobile radio service, even in the event that such transmission originates or terminates in a wireline telephone.

Rule 2. Applicability.

These Rules shall apply to all Carriers, as defined by these Rules, and shall be construed consistently with Rule 3 of these Rules.

Rule 3. Application of and Conflict With Other Rules, Regulations, Tariffs and/or Price Lists.

(a) The ILEC.

(i) The ILEC will remain subject to the Telecommunications Technology [Investment] Act (TTIA), 26 Del. C. sub. Ch. VII-A, and any implementing regulations promulgated by the Commission during the term of its election thereunder. During such term, the ILEC shall not be subject to the requirements of these Part A. Rules; and

(ii) The ILEC has Carrier of last resort obligations in its service territory.

(b) Telephone Service Quality Regulations (Docket No. 20).

All Carriers shall provide telephone service in accordance with the Telephone Service Quality Regulations the Commission adopted in PSC Regulation Docket No. 20, by Order No. 3232 (January 15, 1991) as such may from time to time be amended, except to the extent these Rules impose obligations or grant privileges inconsistent therewith.

(c) Negotiation and Mediation Guidelines.

All Carriers must abide by the Commission's Guidelines for Negotiations, Mediation, Arbitration and Approval

of Agreements between Local Exchange Telecommunications Carriers (Order No. 4245).

(d) Rules of Practice and Procedure

The practice and procedure governing any proceedings required or authorized by these Rules shall be as set forth by the Commission's Rules of Practice and Procedure adopted in PSC Docket No. 99-9, by Order No. 5057 (April 6, 1999) as the same may be hereafter from time to time amended.

(e) Other Rules and Statutes.

These Rules shall prevail over any inconsistent requirements imposed by prior Order or regulation of the Commission, except for Rule 3(a) preceding and where expressly authorized by a Commission Order granting a waiver. All Carriers remain subject to any and all applicable provisions of state and federal law.

(f) Tariffs or Price Lists.

To the extent that a tariff or price list of any Carrier is inconsistent with these Rules, then, and in that event, these Rules shall control, subject to Rule 3(a) preceding, unless where expressly authorized by a Commission Order granting a waiver.

Rule 4. Certification.

(a) Certification Requirement.

No person or entity shall offer public intrastate or local exchange telecommunications service within the State of Delaware without first obtaining from the Commission a Certificate of Public Convenience and Necessity authorizing such service. A Carrier offering telecommunications service within the State of Delaware without a CPCN duly issued by this Commission is acting unlawfully and shall immediately cease offering such service until a CPCN is granted.

(b) Application.

An applicant for a CPCN shall file with the Commission an original and ten (10) copies of an Application for Certificate of Public Convenience and Necessity, together with the statutory filing fee set forth in 26 *Del. C.* § 114, as the same may from time to time be amended. Such application shall contain all the information and exhibits hereinafter required and may contain such additional information as the applicant deems appropriate to demonstrate to the Commission that it possesses the technical, financial and

operational ability to adequately serve the public and that the public convenience and necessity requires or will require the operation of such business. If the applicant fails to provide the required information and exhibits within six months of the application, the Commission may take action to close this docket and the applicant will forfeit its application fee.

(c) Notice.

The applicant shall serve a notice of the filing of such an application upon the Public Advocate, and to such other entities as may be required by the Commission. The applicant shall provide public notice of the filing of the application in two (2) newspapers having general circulation throughout the county or counties where service is to be offered in a form to be prescribed by the Commission.

(d) Business License and Registered Agent.

An applicant shall demonstrate that it is legally authorized and qualified to do business in the State of Delaware, including that it has received authorization to do business issued by the Secretary of State. An applicant shall provide the name, address, and telephone number of its Delaware Resident Agent. Following certification, all Carriers shall promptly notify the Commission in writing of changes of Resident Agent or the name, address, or telephone number thereof.

(e) Identification and Billing of Intrastate and Interstate Traffic.

An applicant shall be required to set forth an effective plan for identifying and billing intrastate versus interstate traffic, and shall pay the appropriate LEC for access at the LEC's prevailing access charge rates. If adequate means of categorizing traffic as interstate versus intrastate are not or cannot be developed, then, for purposes of determining the access charge to be paid to the LEC for such undetermined traffic, the traffic shall be deemed to be of the jurisdiction having the higher access charges and billed at the higher access charges.

(f) Bonds.

(i) Performance Bonds.

All applicants must post a \$10,000 performance bond with Delaware surety and renew such bond annually.

(ii) Carriers requiring deposits, or any form of payment in advance for service.

No Carrier shall require its customers in Delaware to pay a deposit or pay or otherwise provide any security or advance as a condition of service unless that Carrier first has filed with the Commission a bond, issued by a corporate surety licensed to do business in Delaware, guaranteeing the repayment of all customer deposits and advances upon the termination of service. The bond need not be filed with the application, but no CPCN will be issued until such bond is filed with the Commission. The amount of the bond shall be the greater of: (A) 150% of the projected balance of deposits and advances at the end of three years of operation; or (B) \$50,000. If at any time the actual amount of deposits and advances held by a Carrier exceeds the bond, then the Carrier promptly shall file with the Commission a bond with surety to comply with the requirement of the preceding sentence. A Carrier may petition for waiver of the bond requirement three years from the date

the certificate was issued and such waiver will be granted upon a demonstration of an adequate operating history and financial resources to insure the repayment to customers of any advance payments or deposits held.

(g) Minimum Financial Requirements for LECs.

- (i) Any applicant for certification as a facilities-based CLEC shall demonstrate in its application that it possesses a minimum of \$100,000 of cash or cash equivalent, reasonably liquid and readily available;
- (ii) Any applicant for certification to do business as a non-facilities-based CLEC shall demonstrate in its application that it possesses a minimum of \$25,000 of cash or cash equivalent, reasonably liquid and readily available;
- (iii) Any applicant that has profitable interstate operations or operations in other states may meet the minimum financial requirements of subparagraphs (i) and (ii) above by submitting an audited balance sheet and income statement demonstrating sufficient cash flow to meet the above requirements; and
- (iv) An applicant may demonstrate cash or cash equivalent by the following:
 - (A) Cash or cash equivalent, including cashier's check, sight draft, performance bond proceeds, or traveler's checks;

- (B) Certificate of deposit or other liquid deposit, with a reputable bank or other financial institution;
- (C) Preferred stock proceeds or other corporate shareholder equity, provided that use is restricted to maintenance of working capital for a period of at least twelve (12) months beyond certification of the applicant by the Commission;
- (D) Letter of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least (12) months beyond certification of the applicant by the Commission;
- (E) Line of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission;
- (F) Loan, issued by a qualified subsidiary, affiliate of applicant, or a qualified corporation holding a controlling interest in the applicant, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission, and payable on an interest-only basis for the same period;

(G) Guarantee, issued by a corporation, copartnership, or other person or association, irrevocable for a period of at least twelve (12) months beyond certification of the applicant by the Commission;

(H) Guarantee, issued by a qualified subsidiary, affiliate of the applicant, or a qualified corporation holding controlling interests in the applicant irrevocable for a period of at least twelve (12) months beyond the certification of the applicant by the Commission.

(h) Initial Tariffs or Price Lists.

An applicant shall file proposed initial rates, prices, rules, regulations, terms and conditions of service specifically adopted for the State of Delaware. Upon an investigation into unjust and unreasonable pricing practices, the Commission Staff may require the applicant to provide cost data demonstrating that rates are reasonably expected to cover the incremental cost of offering the service. Copies of the applicant's rates and terms and condition of service in other jurisdictions must be provided to the Commission upon request. Any applicant's tariff or price lists must include at a minimum specific policies regarding:

(i) customer deposits and advances;

- (ii) prompt reconciliation of customer billing problems and complaints; and
- (iii) timely correction of service problems.

(i) Demonstration of Fitness.

An applicant shall be required to demonstrate to the Commission its financial, operational, and technical ability to render service within the State of Delaware. Such demonstration shall include, but is not limited to, the following:

- (i) The applicant's certified financial statements current within twelve (12) months of the filing, and, where applicable, the most recent annual report to shareholders and SEC Form 10-K;
- (ii) A brief narrative description of the applicant's proposed operations in Delaware, any present operations in all other states, and states for which service applications are pending;
- (iii) A description of the relevant operations experience of applicant's personnel principally responsible for the proposed Delaware operations;
- (iv) A specific description of the applicant's engineering and technical expertise showing its qualifications to provide the intended service, including the names, addresses, and qualifications of the officers, directors, and technical or engineering personnel or contractors who will be operating and/or maintaining the equipment to be used to provide such service; and

- (v) A description, including location, of the applicant's facilities that the applicant will use to provide the proposed service in the next three years. Upon written request of the Commission Staff, the applicant shall provide a one year construction, maintenance, engineering, and financial plan for all services intended to be provided within the State of Delaware with a technical description of the equipment which will be used to provide such service.

Rule 5. New Options or Offerings; Changes to Existing Rates, Prices or Terms and Conditions.

(a) Notice Required for New Service Options and Offerings.

No Carrier shall offer new telecommunication service options or offerings except ten (10) days after filing with the Commission the proposed tariff or price list.

(b) Notice Required to Revise Existing Tariff or Price List.

No Carrier shall revise an existing tariff or price list except three (3) days after filing with the Commission the proposed tariff or price list.

(c) Service of Notice.

A Carrier filing a new service or changes to an existing service pursuant to this Rule shall serve the filing on:

- (i) the Public Advocate; and
- (ii) all interested persons that submit a written request to the Commission to receive such notice.

A Carrier shall file with the Commission a certificate of service as part of its notice requirement. To the extent that any such documents contain information claimed to be

proprietary and interested persons have submitted a written request for notice, but have not executed an appropriate proprietary agreement, the Carrier shall provide an expurgated version of the notice to such parties.

(d) Investigation of Filings.

A filing made pursuant to this rule shall not preclude the Commission or its Staff from an informal or formal investigation into the filing in order to protect fair competition, including requiring the Carrier to provide cost data demonstrating that rates are reasonably expected to cover the incremental cost of offering the service.

(e) Special Contracts

A Carrier shall file under this rule all contracts with a customer to the extent the contract changes the terms or conditions generally offered to the public in the carrier's tariff or price list on file with the Commission.

Rule 6. Discrimination Prohibited.

No Carrier shall unreasonably discriminate among persons requesting a service within the State of Delaware. Any finding of unreasonable discrimination shall be grounds for suspension or revocation of the Certificate of Public Convenience and Necessity granted by the Commission, as well as the imposition of monetary and other penalties pursuant to 26 Del. C. §§ 217 and 218.

Rule 7. Abandonment or Discontinuation of Service.

A Carrier may abandon or discontinue service, in whole or in part, in accordance with the terms of 26 Del. C. § 203A(c). The Carrier shall provide notice of its

application to discontinue or abandon service to its customers subscribing to such service and to the Division of Public Advocate. Such notice shall describe the options available to the customers. The Carrier's application to abandon or discontinue a service shall contain proposed provision for payment of all relevant outstanding liabilities (deposits and advance payments), if any, to customers within the State of Delaware.

Rule 8. Services to be Provided By CLECs Providing Voice Telephone Service.

Any CLEC providing voice telephone service shall offer, at a minimum, the following telecommunication services to its customers:

- (a) access to the public switched network;
- (b) dial tone line services;
- (c) local usage services;
- (d) access to all available long distance Carriers;
- (e) TouchTone services;
- (f) White page listing;
- (g) Access to 911 enhanced emergency system;
- (h) Local directory assistance service;
- (i) Access to telecommunications relay service.

Rule 9. Resale Prohibitions.

- (a) Cross-Class Selling.

A Carrier that by tariff or price list makes a service available only to residential customers or a limited class of residential customers may prohibit the purchaser from offering such services to classes of customers that are not

eligible for such services from the providing Carrier.

(b) Other.

With respect to any restrictions on resale other than cross-class selling as described in paragraph (a) above, a Carrier may impose a restriction only if the Commission determines that the restriction is reasonable and nondiscriminatory.

Rule 10. Reports to the Commission.

(a) Annual and Periodic Reports.

All Carriers shall file with the Commission an Annual Report as described below and such other reports or information as the Commission may from time to time require to fulfill its statutory obligations. The Annual Report shall include standard financial reports (balance sheet, statement of operations, supporting schedules, etc.). This report shall also include:

- (i) the same after-the-fact information that management is provided concerning the measurement of performance provided in Delaware;
- (ii) the information used to determine Delaware income tax liability;
- (iii) financial and operating information for the smallest management unit that includes Delaware;
- (iv) intrastate revenues (net of uncollectible) by service category;

- (v) intrastate access and billing and collection cost by service category;
- (vi) total number of customers by service category;
- (vii) total intrastate minutes of use by service category;
- (viii) total intrastate number of calls by service category;
- (ix) a description of service offered;
- (x) a description of each complaint received by service category (in the form of a single Complaints Log); and
- (xi) verification of deposits, customer advances, the bond requirement and the bond with surety, where applicable.

(b) Accounting System.

All Carriers shall use an accounting system in accordance with Generally Accepted Accounting Principles or such other uniform system of accounts previously approved in writing by the Chief of Technical Services of the Commission.

(c) Attestation.

All Carriers shall file all reports required by these Rules with a sworn statement by the person under whose direction the report was prepared, that the information provided in the report is true and correct to the best of the person's knowledge and belief.

(d) Time for Filing.

All periodic reports to be filed with this Commission must be received on or before the following due dates, unless otherwise specified herein, or unless good cause is demonstrated by the Carrier:

- i. Annual Report: one hundred twenty (120) days after the end of the reported period; and
- ii. Special and additional reports: as may be prescribed by the Commission unless good cause to the contrary is demonstrated.

Rule 11. Enforcement.

(a) Commission Oversight.

The Commission shall have the authority and the discretion to take such action, upon complaint, motion, or formal or informal investigation, to remedy any alleged violations of these Rules. The Commission shall have available to it all remedies and enforcement powers bestowed by statute and consistent with due process.

(b) Violation and Penalties.

Failure of a Carrier to comply with any provision of these Rules may result in the suspension or revocation of its CPCN, and/or of the imposition of monetary or other penalties as authorized by 26 Del. C. §§ 217 and 218.

(c) Proceedings.

Upon application by any person affected, including the Division of the Public Advocate or another Carrier, or upon its own motion, the Commission may conduct a

proceeding to determine whether a Carrier has violated any provision of these Rules. Such proceedings shall be conducted according to the Commission's Rules of Practice and Procedure.

(d) Investigations.

For the purpose of determining whether it is necessary or advisable to commence a proceeding, the Commission or its Staff may, at any time, investigate whether a Carrier is in compliance with these Rules. Upon request, the Carrier shall provide to the Commission or its Staff sufficient information to demonstrate its compliance or noncompliance with the Rules, including such data as shall demonstrate that the Carriers' services are provided at rates that generate sufficient revenue to cover the incremental cost of offering that service.

(e) Customer Complaints as Ground for Proceeding or Investigation.

The Commission may hold a proceeding to determine whether to suspend or revoke the certificate of, or otherwise penalize any Carrier for reason of customer complaints. The Commission may investigate any customer complaints received.

Rule 12. Waiver of Rules Upon Petition.

A Carrier may petition the Commission for waiver of a Rule or Rules on a temporary or permanent basis by demonstrating to the satisfaction of the Commission that a waiver is in the public interest or for other good cause, including

unreasonable hardship or burden. The Carrier shall comply with all Rules until the petition for waiver has been granted.

**PART B
CUSTOMER ELECTION OF PREFERRED CARRIER**

Rule 13. Additional Definitions.

For purposes of this PART B, in addition to the Definitions set forth by PART A, the following definitions shall apply:

- (a) Preferred Carrier shall mean the Carrier providing service to the customer at the time of the adoption of these Rules, or such Carrier as the customer thereafter designates as the customer's Preferred Carrier.
- (b) Preferred Carrier Change Order shall mean generally any order changing a customer's designated Carrier for local exchange service, intraLATA intrastate toll service or both.

Rule 14. Applicability.

Any Carrier offering intrastate and/or local exchange service for public use within the State of Delaware, including the ILEC, Bell Atlantic-Delaware, Inc., shall be subject to the provisions of these Part B Rules.

Rule 15. Verification of Orders for Telecommunications Service.

No Carrier shall submit a Preferred Carrier Change Order unless and until the Order has been first confirmed in accordance with one of the procedures set forth in 47 C.F.R. § 64-1120.

Rule 16. Letter of Agency Form and Content.

A Carrier may use a letter of agency to obtain written authorization and/or verification of a customer's request to change his or her Preferred Carrier selection. A letter of agency that does not conform with the requirements set forth in 47 C.F.R. § 64.1130 is invalid.

Rule 17. Submission and Execution of Changes in Customer Carrier Selections.

Submission and execution of changes in customer carrier selection shall comply with 47 C.F.R. § 64.1120.

Rule 18. Preferred Carrier Freezes.

A Preferred Carrier freeze prevents a change in a customer's Preferred Carrier selection unless the customer has given the Carrier from which the freeze was requested his or her express consent. All Carriers who offer Preferred Carrier freezes must comply with the provisions of 47 C.F.R. § 64.1190.

Rule 19. Customer Protection.

(a) Procedures To Be Followed By The Customer.

A customer who believes his or her Carrier or Carriers have been changed, without the customer's authorization, and/or that the customer has been billed for charges not authorized by the customer, should first attempt to resolve the matter with the Carrier or Carriers responsible for the unauthorized changes and/or charges. If the customer is not satisfied with the resolution offered by the Carrier, the customer may file a complaint with the Commission.

(b) Procedures To Be Followed By Carriers.

A Carrier who is informed by a customer that the customer believes the Carrier has caused or allowed a change in the customer's Carrier without the customer's authorization, or that the Carrier has caused or allowed the customer to be billed for charges not authorized by the customer shall attempt to resolve the complaint promptly and in good faith. If the customer and Carrier are not able to resolve the complaint, then the Carrier shall inform the customer orally or in writing of the right to file a complaint with the Commission and shall provide the customer with the Commission's address and telephone number.

(c) Carriers to Maintain Record of Complaints.

Each Carrier shall maintain a record of the complaints received by it alleging that the Carrier

has caused or allowed a customer's Carrier to be changed without the customer's authorization or has caused or allowed the customer to be billed for charges not authorized by the customer. The Carrier shall maintain the record of each complaint for a period of two years following initial notification of the complaint. Upon request by the Commission or its staff, a Carrier shall furnish a copy of its complaint records and such other information as the Commission Staff may require. A Carrier's complaint records shall include at least the following information:

- (i) name, address, and telephone number of complainant and the date and manner received by the Carrier; and
- (ii) a chronological summary of the dispute and its current status, including any resolution and date of resolution.

(d) Refund and Penalties.

In the event the Commission determines that a Carrier has caused a customer's Carrier for a service to be changed without the customer's authorization obtained in exact compliance with these Rules, or has caused the customer to be billed for charges imposed without exact compliance with these Rules, then the Commission shall require the Carrier to promptly refund or void to the customer any charges the Carrier has caused to be billed as a result of the unauthorized change or charge, and/or any other remedies available for violation of these Rules as allowed by law. 26 Del. C. § 924(c). The Commission's remedies are in addition to those required under 47 C.F.R. § 64.1170 to the extent the FCC's remedies have not provided a refund or credit to the subscriber in the amount of 100% of all charges the Carrier caused to be billed as a result of the unauthorized change or charge.

FLORIDA PUBLIC SERVICE COMMISSION
DIVISION OF REGULATORY ANALYSIS
APPLICATION FORM
for
AUTHORITY TO PROVIDE COMPETITIVE LOCAL EXCHANGE
TELECOMMUNICATIONS COMPANY SERVICE
WITHIN THE STATE OF FLORIDA

Instructions

- A. This form is used as an application for an original certificate and for approval of sale, assignment or transfer of an existing certificate. In the case of a sale, assignment or transfer, the information provided shall be for the purchaser, assignee or transferee (See Page 8).
- B. Print or type all responses to each item requested in the application. If an item is not applicable, please explain.
- C. Use a separate sheet for each answer which will not fit the allotted space.
- D. Once completed, submit the original and one copy of this form along with a non-refundable application fee of **\$400.00** to:

Florida Public Service Commission
Office of Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6770

- E. A filing fee of **\$400.00** is required for the sale, assignment or transfer of an existing certificate to another company (Chapter 25-24.815, F.A.C.).
- F. If you have questions about completing the form, contact:

Florida Public Service Commission
Division of Regulatory Analysis
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6600

1. This is an application for (check one):

Original certificate (new company).

Approval of transfer of existing certificate: Example, a non-certificated company purchases an existing company and desires to retain the original certificate of authority rather than apply for a new certificate.

Approval of assignment of existing Certificate: Example, a certificated company purchases an existing company and desires to retain the existing certificate of authority and tariff.

2. Name of company:

3. Name under which applicant will do business (fictitious name, etc.):

4. Official mailing address:

Street/Post Office Box:

City:

State:

Zip:

5. Florida address:

Street/Post Office Box:

City:

State:

Zip:

6. Structure of organization:

- Individual
- Foreign Corporation
- General Partnership
- Other,

- Corporation
- Foreign Partnership
- Limited Partnership

7. **If individual**, provide:

Name:
Title:
Street/Post Office Box:
City:
State:
Zip:
Telephone No.:
Fax No.:
E-Mail Address:
Website Address:

8. **If incorporated in Florida**, provide proof of authority to operate in Florida. The Florida Secretary of State corporate registration number is:

9. **If foreign corporation**, provide proof of authority to operate in Florida. The Florida Secretary of State corporate registration number is:

10. **If using fictitious name (d/b/a)**, provide proof of compliance with fictitious name statute (Chapter 865.09, FS) to operate in Florida. The Florida Secretary of State fictitious name registration number is:

11. **If a limited liability partnership**, please proof of registration to operate in Florida. The Florida Secretary of State registration number is:

12. **If a partnership**, provide name, title and address of all partners and a copy of the partnership agreement.

Name:
Title:
Street/Post Office Box:
City:
State:
Zip:
Telephone No.:
Fax No.:
E-Mail Address:
Website Address:

13. **If a foreign limited partnership**, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS), if applicable. The Florida registration number is:

14. Provide **F.E.I. Number**(if applicable):

15. Who will serve as liaison to the Commission in regard to the following?

(a) The application:

Name:
Title:
Street name & number:
Post office box:
City:
State:
Zip:
Telephone No.:
Fax No.:
E-Mail Address:
Website Address:

(b) Official point of contact for the ongoing operations of the company:

Name:
Title:
Street name & number:
Post office box:
City:
State:
Zip:
Telephone No.:
Fax No.:
E-Mail Address:
Website Address:

(c) Complaints/Inquiries from customers:

Name:
Title:
Street/Post Office Box:
City:
State:
Zip:
Telephone No.:
Fax No.:
E-Mail Address:
Website Address:

16. List the states in which the applicant:

(a) has operated as a Competitive Local Exchange Telecommunications Company.

(b) has applications pending to be certificated as a Competitive Local Exchange Telecommunications Company.

(c) is certificated to operate as a Competitive Local Exchange Telecommunications Company.

(d) has been denied authority to operate as a Competitive Local Exchange Telecommunications Company and the circumstances involved.

(e) has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.

(f) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

17. Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been:

(a) adjudged bankrupt, mentally incompetent (and not had his or her competency restored), or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings. If so, provide explanation.

(b) granted or denied a competitive local exchange certificate in the State of Florida (this includes active and canceled competitive local exchange certificates). If yes, provide explanation and list the certificate holder and certificate number.

(c) an officer, director, partner or stockholder in any other Florida certificated or registered telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

18. Submit the following:

(a) Managerial capability: resumes of employees/officers of the company that would indicate sufficient managerial experiences of each.

(b) Technical capability: resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance.

(c) Financial Capability: applicant's audited financial statements for the most recent three (3) years. If the applicant does not have audited financial statements, it shall so be stated. Unaudited financial statements should be signed by the applicant's chief executive officer and chief financial officer affirming that the financial statements are true and correct and should include:

1. the balance sheet,
2. income statement, and
3. statement of retained earnings.

Note: This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

THIS PAGE MUST BE COMPLETED AND SIGNED

REGULATORY ASSESSMENT FEE: I understand that all telephone companies must pay a regulatory assessment fee. Regardless of the gross operating revenue of a company, a minimum annual assessment fee, as defined by the Commission, is required.

RECEIPT AND UNDERSTANDING OF RULES: I acknowledge receipt and understanding of the Florida Public Service Commission's rules and orders relating to the provisioning of competitive local exchange telecommunications company (CLEC) service in Florida.

APPLICANT ACKNOWLEDGEMENT: By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide competitive local exchange telecommunications company service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, **"Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."**

Company Owner or Officer

Print Name:

Title:

Telephone No.:

E-Mail Address:

Signature: _____

Date: _____

CERTIFICATE SALE, TRANSFER,
OR
ASSIGNMENT STATEMENT

As current holder of Florida Public Service Commission Certificate Number _____, I have reviewed this application and join in the petitioner's request for a

- sale
- transfer
- assignment

of the certificate.

Company Owner or Officer

Print Name:
Title:
Street/Post Office Box:
City:
State:
Zip:
Telephone No.:
Fax No.:
E-Mail Address:

Signature: _____

Date: _____

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to provide competitive local exchange telecommunications service by North County Communications Corporation.	DOCKET NO. 100389-TX ORDER NO. PSC-10-0598-PAA-TX ISSUED: September 30, 2010
---	--

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
ART GRAHAM
RONALD A. BRISÉ

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CERTIFICATE TO
PROVIDE COMPETITIVE LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

North County Communications Corporation (NCCC) has applied for a certificate to provide Competitive Local Exchange Telecommunications (CLEC) service, pursuant to Section 364.337, Florida Statutes. Upon review of its application, it appears that NCCC has sufficient technical, financial, and managerial capability to provide such service. Accordingly, we hereby grant to NCCC Certificate No. 8799 which shall authorize it to provide CLEC services throughout the State of Florida.

If this Order becomes final and effective, it shall serve as NCCC's certificate. NCCC should, therefore, retain this Order as proof of certification. We are vested with jurisdiction over this matter pursuant to Sections 364.335 and 364.337, Florida Statutes.

DOCUMENT NUMBER DATE

08190 SEP 30 2010

FPSC-COMMISSION CLERK

CLEC providers are subject to Chapter 25-24, Florida Administrative Code, Part XV, Rules Governing Telecommunications Service Provided by Competitive Local Exchange Companies. CLEC providers are also required to comply with all applicable provisions of Chapter 364, Florida Statutes, and Chapter 25-4, Florida Administrative Code.

Pursuant to Section 364.337(2), Florida Statutes, basic telecommunications service provided by an CLEC "... must include access to operator services, "911" services, and relay services for the hearing impaired." Further, Section 364.337(2), requires that an CLEC's "911" service "... shall be provided at a level equivalent to that provided by the local exchange telecommunications company serving the same area."

In addition, under Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee (RAFs) if the certificate was active during any portion of the calendar year. A RAFs Return notice will be mailed each December to NCCC for payment by January 30th. Neither the cancellation of the certificate nor the failure to receive a RAFs Return notice shall relieve NCCC from its obligation to pay RAFs.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby grant Certificate No. 8799 to North County Communications Corporation, which shall authorize it to provide Competitive Local Exchange Telecommunications services, subject to the terms and conditions set forth in the body of this Order. It is further

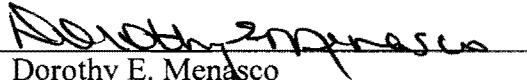
ORDERED that this Order shall serve as North County Communications Corporation's certificate and should be retained by North County Communications Corporation as proof of certification. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 30th day of September, 2010.

ANN COLE
Commission Clerk

By: 
Dorothy E. Menasco
Chief Deputy Commission Clerk

(S E A L)

VSM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 21, 2010.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

25-24.805 Certificate of Public Convenience and Necessity Required.

(1) No person shall provide competitive local exchange telecommunications service without first obtaining a certificate of public convenience and necessity from the Commission. The certificate shall be for statewide authority, unless precluded by Section 364.337(1), F.S., to provide all Commission approved telecommunications services. Services may not be provided, nor may deposits or payment for services be collected, until the effective date of a certificate. However, marketing and development activities may begin prior to the effective date of the certificate at the applicant's risk that it may not be granted. Prior to certification, the applicant must advise the public in any customer contacts or advertisements that certification has not and may not be granted.

(2) Any Alternative Access Vendor certificated prior to July 1, 1995, may become a Competitive Local Exchange Company by filing with the Commission's Office of Commission Clerk a letter of intent to provide local exchange service. An application fee is not required to be paid in conjunction with such filing. Authorization associated with such letter of intent shall be effective January 1, 1996, or upon receipt by the Commission, whichever is later. Competitive Access Vendors authorized pursuant to this section shall be subject to all rules applicable to Competitive Local Exchange Telecommunications Companies.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.01, 364.337 FS. History--New 12-27-95.

25-24.810 Application for Certificate.

(1) An applicant for a certificate shall submit an application on Form PSC/RAD 8 (5/08), which is incorporated into this rule by reference. Form PSC/RAD 8 (5/08), entitled “Application Form for Authority to Provide Competitive Local Exchange Service Within the State of Florida”, may be obtained from the Commission’s website at www.floridapsc.com/utilities/telecomm/ or by contacting the Commission’s Division of Regulatory Analysis. A non-refundable application fee of \$400.00 must accompany the filing of each application.

(2) An original and one copy of the application shall be filed with the Office of Commission Clerk.

Rulemaking Authority 350.127(2) FS. Law Implemented 364.335 FS. History—New 12-27-95, Amended 1-5-06, 5-29-08.

Select Year: 2010

The 2010 Florida Statutes

[Title XXVII](#)
RAILROADS AND OTHER REGULATED
UTILITIES

[Chapter 364](#)
TELECOMMUNICATIONS
COMPANIES

[View Entire
Chapter](#)

364.335 Application for certificate.—

(1) Each applicant for a certificate shall:

(a) Provide all information required by rule or order of the commission, which may include a detailed inquiry into the ability of the applicant to provide service, a detailed inquiry into the territory and facilities involved, and a detailed inquiry into the existence of service from other sources within geographical proximity to the territory applied for.

(b) File with the commission schedules showing all rates for service of every kind furnished by it and all rules and contracts relating to such service.

(c) File the application fee required by the commission in an amount not to exceed \$500. Such fees shall be deposited in accordance with s. [350.113](#).

(d) Submit an affidavit that the applicant has caused notice of its application to be given to such persons and in such manner as may be prescribed by commission rule.

(2) If the commission grants the requested certificate, any person who would be substantially affected by the requested certification may, within 21 days after the granting of such certificate, file a written objection requesting a proceeding pursuant to ss. [120.569](#) and [120.57](#). The commission may, on its own motion, institute a proceeding under ss. [120.569](#) and [120.57](#) to determine whether the grant of such certificate is in the public interest. The commission shall order such proceeding conducted in or near the territory applied for, if feasible. If any person requests a public hearing on the application, such hearing shall, if feasible, be held in or near the territory applied for, and the transcript of the public hearing and any material submitted at or prior to the hearing shall be considered part of the record of the application and any proceeding related to the application.

(3) The commission may grant a certificate, in whole or in part or with modifications in the public interest, but in no event granting authority greater than that requested in the application or amendments thereto and noticed under subsection (1); or it may deny a certificate. The commission may grant certificates for proposed telecommunications companies, or for the extension of an existing telecommunications company, without regard to whether such companies will be in competition with or duplicate the local exchange services provided by any other telecommunications company. The commission may also grant a certificate for a proposed telecommunications company, or for the extension of an existing telecommunications company, which will be providing either competitive or duplicative pay telephone service pursuant to the provisions of s. [364.3375](#), or private line service by a certified alternative access vendor pursuant to s. [364.337\(6\)](#). Pay telephone service shall include that telephone service using telephones that are capable of accepting payment by specie, paper money, or credit cards.

(4) Except as provided in s. ~~364.33~~, revocation, suspension, transfer, or amendment of a certificate shall be subject to the provisions of this section; except that, when the commission initiates the action, the commission shall furnish notice to the appropriate local government and to the Public Counsel.

History.— s. 27, ch. 80-36; s. 2, ch. 81-318; ss. 3, 5, ch. 82-51; s. 6, ch. 83-73; s. 1, ch. 85-327; ss. 6, 7, ch. 89-163; ss. 32, 48, 49, ch. 90-244; s. 4, ch. 91-429; s. 21, ch. 95-403; s. 93, ch. 96-410; s. 18, ch. 2005-132; s. 12, ch. 2009-226.

Copyright © 1995-2010 The Florida Legislature • [Privacy Statement](#) • [Contact Us](#)

Select Year: 2010

The 2010 Florida Statutes

[Title XXVII](#)
RAILROADS AND OTHER REGULATED
UTILITIES

[Chapter 364](#)
TELECOMMUNICATIONS
COMPANIES

[View Entire
Chapter](#)

364.337 Competitive local exchange telecommunications companies; intrastate interexchange telecommunications services; certification.—

(1) Upon this act becoming a law, a party may file an application for a certificate as a competitive local exchange telecommunications company before January 1, 1996, and the commission shall conduct its review of the application and take all actions necessary to process the application. However, an application shall become effective no sooner than January 1, 1996. The commission shall grant a certificate of authority to provide competitive local exchange service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. A competitive local exchange telecommunications company may not offer basic local telecommunications services within the territory served by a company subject to s. [364.052](#) prior to January 1, 2001, unless the small local exchange telecommunications company is regulated under s. [364.051](#) or provides cable television programming services directly or as video dial tone applications authorized under 47 U.S.C. s. 214, except as provided for in compliance with part II. It is the intent of the Legislature that the commission act expeditiously to grant certificates of authority under this section and that the grant of certificates not be affected by the application of any criteria other than that specifically enumerated in this subsection.

(2) Rules adopted by the commission governing the provision of competitive local exchange telecommunications service shall be consistent with s. [364.01](#). The basic local telecommunications service provided by a competitive local exchange telecommunications company must include access to operator services, “911” services, and relay services for the hearing impaired. A competitive local exchange telecommunications company’s “911” service shall be provided at a level equivalent to that provided by the local exchange telecommunications company serving the same area. There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed. A certificated competitive local exchange telecommunications company may petition the commission for a waiver of some or all of the requirements of this chapter, except ss. [364.16](#), [364.336](#), and subsections (1) and (5). The commission may grant such petition if determined to be in the public interest. Competitive local exchange telecommunications companies are not subject to the requirements of ss. [364.33](#) and [364.3381](#).

(3) The commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

(4) Rules adopted by the commission governing the provision of intrastate interexchange telecommunications service must be consistent with s. [364.01](#). A certificated intrastate interexchange

telecommunications company may petition the commission for a waiver for some or all of the requirements of this chapter, except s. ~~364.16~~, s. ~~364.335~~(3), or subsection (5). The commission may grant such petition if determined to be in the public interest. Intrastate interexchange telecommunications companies are not subject to the requirements of s. ~~364.3381~~.

(5) The commission shall have continuing regulatory oversight over the provision of basic local exchange telecommunications service provided by a certificated competitive local exchange telecommunications company or a certificated alternative access vendor for purposes of establishing reasonable service quality criteria, assuring resolution of service complaints, and ensuring the fair treatment of all telecommunications providers in the telecommunications marketplace.

(6)(a) The Legislature finds the provision of alternative access vendor services to be in the public interest, and the commission may authorize the provision of such service. For the purposes of this section, effective January 1, 1996, the term “alternative access vendor services” means the provision of private line service between an entity and facilities at another location, whether owned by the entity or an unaffiliated entity or access service between an end user and an interexchange carrier by other than a local exchange telecommunications company. For purposes of this chapter, the term “private line service” means any dedicated point-to-point or point-to-multipoint service for the transmission of any public telecommunications service.

(b) A person may not provide alternative access vendor services without first obtaining a certificate from the commission. Any certificated alternative access vendor as of the date this act becomes a law wishing to provide alternative local exchange telecommunications service in addition to the services authorized in its certificate may do so, effective January 1, 1996, upon furnishing written notice to the commission.

History.— ss. 4, 5, ch. 82-51; s. 1, ch. 84-83; s. 30, ch. 85-81; ss. 6, 7, ch. 89-163; ss. 34, 48, 49, ch. 90-244; s. 4, ch. 91-429; s. 23, ch. 95-403; s. 14, ch. 98-277; s. 16, ch. 2003-32; s. 6, ch. 2010-38.

Filing Instructions: Mail one (1) original and five (5) copies of completed application materials, including all attachments, to:

Mr. Reece McAlister
Executive Secretary
Georgia Public Service Commission
244 Washington St. SW
Atlanta, GA 30334



Georgia Public Service Commission
244 WASHINGTON STREET, SW
ATLANTA GEORGIA 30334-5701

**APPLICATION FOR CERTIFICATE OF AUTHORITY
TO PROVIDE COMPETITIVE LOCAL EXCHANGE SERVICE**

I. APPLICANT ADDRESS

NAME OF COMPANY _____
ADDRESS: STREET _____

CITY _____ STATE _____ ZIP CODE _____
TEL. NO. () _____ FAX NO. () _____

EMPLOYEE DESIGNATED TO RECEIVE AND RESPOND TO COMMISSION REQUESTS:

NAME _____ TEL. NO. () _____
TITLE _____ FAX NO. () _____
E-MAIL _____

EMPLOYEE ADDRESS (IF DIFFERENT FROM ABOVE):

STREET _____
CITY _____ STATE _____ ZIP CODE _____

NOTE: FAILURE TO NOTIFY THE COMMISSION, IN WRITING, WHEN THERE IS A CHANGE IN THE CONTACT PERSON OR ADDRESS(ES) LISTED IN THIS APPLICATION WILL RESULT IN CANCELLATION OF THE APPLICATION OR SUBSEQUENT CERTIFICATE.

II. ATTORNEY OR AGENT ADDRESS

IF APPLICANT IS NOT A GEORGIA CORPORATION, GIVE NAME AND ADDRESS OF AN ATTORNEY OR AGENT IN THE STATE OF GEORGIA UPON WHOM PROCESS MAY BE SERVED IN ANY SUIT AGAINST APPLICANT.

NAME _____
NAME OF FIRM _____
ADDRESS: STREET _____

CITY _____ STATE _____ GA _____ ZIP CODE _____
TEL. NO. () _____ FAX NO. () _____

III. ORGANIZATION

1. TYPE OF ORGANIZATION: (CHECK ONE)

- LLC
- INDIVIDUAL
- PARTNERSHIP
- CORPORATION
- MUTUAL OR COOPERATIVE (INC./UNINC.)
- OTHER (SPECIFY): _____

2. IF APPLICANT IS A CORPORATION OR LIMITED PARTNERSHIP, INSERT THE SEVEN-DIGIT CONTROL NUMBER FROM "CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS" ISSUED BY THE SECRETARY OF STATE OF THE STATE OF **GEORGIA**.

CONTROL NUMBER: _____

ATTACH A COPY OF GEORGIA SECRETARY OF STATE CERTIFICATE, MARKED EXHIBIT ____.

3. IF APPLICANT IS A CORPORATION, ATTACH COPY OF CHARTER, MARKED EXHIBIT _____. ALSO ATTACH A LIST OF ALL DIRECTORS AND PRINCIPAL STOCKHOLDERS WITH THE NUMBER OF SHARES HELD BY EACH, MARKED EXHIBIT ____, AND GIVE NAME AND ADDRESSES OF THE FOLLOWING OFFICERS:

PRESIDENT _____ ADDRESS _____

V. PRESIDENT _____ ADDRESS _____

TREASURER _____ ADDRESS _____

SECRETARY _____ ADDRESS _____

STATE AND DATE OF INCORPORATION: STATE _____ DATE _____

4. IF APPLICANT IS A PARTNERSHIP OR COOPERATIVE, PROVIDE AN ATTACHMENT, MARKED EXHIBIT ____, WITH NAMES AND ADDRESSES OF PARTNERS, OFFICERS OR MEMBERS.

5. IF APPLICANT IS A SUBSIDIARY, PARENT, OR AFFILIATE OF ANY OTHER COMPANY, REGARDLESS OF TYPE OR INDUSTRY, PROVIDE A CHART, MARKED EXHIBIT ____, SHOWING THE RELATIONSHIPS BETWEEN THE APPLICANT AND ALL AFFILIATED COMPANIES.

IV. EXISTING AUTHORITY

1. DOES THE APPLICANT OR ANY AFFILIATE PRESENTLY HAVE AN EXISTING CERTIFICATE(S) OF AUTHORITY ISSUED BY THE GEORGIA PUBLIC SERVICE COMMISSION?

NO

YES

IF YES, CHECK CERTIFICATE TYPE(S) AND INSERT CERTIFICATE NUMBERS:

INTEREXCHANGE CARRIER (IXC): X-____

RESELLER OF LONG DISTANCE (RESALE): R -____

ALTERNATE OPERATOR SERVICE (AOS): A-____

INSTITUTIONAL TELECOMMUNICATIONS SERVICE (ITS): P-____

PAYPHONE SERVICE PROVIDER (PSP): ____

AUTOMATIC DIALING AND ANNOUNCING DEVICE (ADAD): ____

TELEPHONE SERVICE OBSERVING EQUIPMENT (TSOE): ____

2. A) DOES THE APPLICANT OR ANY AFFILIATE PRESENTLY HAVE CERTIFICATE AUTHORITY IN ANY OTHER STATE OR FEDERAL JURISDICTION(S)?

NO

YES

IF YES, LIST STATES IN WHICH AUTHORITY HAS BEEN GRANTED: _____

B) DOES THE APPLICANT OR ANY AFFILIATE PRESENTLY HAVE PENDING APPLICATIONS IN ANY OTHER STATE OR FEDERAL JURISDICTION(S)?

NO

YES

IF YES, LIST STATES IN WHICH APPLICATIONS ARE PENDING: _____

C) HAS THE APPLICANT BEEN DENIED CERTIFICATION IN ANY JURISDICTION?

NO

YES

IF YES, WHICH STATE(S) OR JURISDICTION(S)? _____
ATTACH A COPY OF THE ORDER(S) DENYING CERTIFICATION.

V. LOCAL EXCHANGE SERVICE

1. WHAT CUSTOMER CLASS(ES) DOES THE APPLICANT PROPOSE TO SERVE (CHECK ALL THAT APPLY)?

RESIDENTIAL

BUSINESS

OTHER: _____

2. PLEASE READ “ADDENDUM – POST-CERTIFICATION OBLIGATIONS OF COMPETITIVE LOCAL EXCHANGE CARRIERS” (AVAILABLE ONLINE AT http://www.psc.state.ga.us/telecom/tl_forms/forms.asp). WILL THE APPLICANT COMPLY WITH THESE REQUIREMENTS?

YES

NO

3. DOES THE COMPANY INTEND TO PROVIDE PRE-PAID LOCAL EXCHANGE SERVICE?

NO

YES

IF YES, READ “ADDENDUM – ADDITIONAL OBLIGATIONS OF PRE-PAID LOCAL EXCHANGE CARRIERS” (AVAILABLE ONLINE AT http://www.psc.state.ga.us/telecom/tl_forms/forms.asp).

4. SELECT THE METHOD(S) BY WHICH SERVICE WILL BE PROVIDED:

RESALE

FACILITIES-BASED (PLEASE COMPLETE SECTION VI OF THE APPLICATION)

5. ATTACH A **LOCAL EXCHANGE TARIFF**, MARKED EXHIBIT ____, WHICH INCLUDES THE RATES, TERMS, AND CONDITIONS FOR ALL SERVICES. APPLICATIONS THAT DO NOT INCLUDE A TARIFF WILL BE RETURNED TO THE APPLICANT.

VI. FACILITIES-BASED SERVICE

1. IF AUTHORITY SOUGHT IS FACILITIES-BASED, ANSWER THE FOLLOWING:

A) AUTHORITY REQUESTED (CHECK ALL THAT APPLY):

- CONSTRUCTION OF NEW FACILITIES
- ACQUISITION OF FACILITIES (LEASE OR PURCHASE)
- PRIVATE LINE SERVICE

B) IF ACQUIRING FACILITIES FROM ANOTHER CARRIER, PLEASE PROVIDE DESCRIPTION AND MAPS.

C) DO YOU CURRENTLY HAVE FACILITIES DEPLOYED IN GEORGIA?

- NO
- YES

IF YES:

PLEASE PROVIDE MAPS INDICATING THE LOCATION(S) OF FACILITIES (E.G., SWITCHES, FIBER, ETC.).
HOW ARE THESE FACILITIES CURRENTLY BEING UTILIZED?

D) WHAT FACILITIES DO YOU PROPOSE TO DEPLOY IN GEORGIA? (PROVIDE DESCRIPTION AND MAPS)

2. PROVIDE BREAKDOWN OF ALL COSTS ASSOCIATED WITH THE FACILITIES TO BE DEPLOYED IN GA.

VII. TECHNICAL CAPABILITY

- 1. PROVIDE RESUMES AND/OR PROFILES OF THE APPLICANT'S MANAGEMENT TEAM, MARKED EXHIBIT _____. DESCRIBE EACH TEAM MEMBER'S TECHNICAL QUALIFICATIONS, WHICH INCLUDE ANY RELEVANT WORK EXPERIENCE, EDUCATION, AND TRAINING.
- 2. DESCRIBE MECHANISM BY WHICH APPLICANT INTENDS TO BILL FOR SERVICES. APPLICANT'S NAME MUST APPEAR ON END-USER'S BILL.

- 3. DETAIL THE PROCESSES BY WHICH THE COMPANY PROPOSES TO HANDLE CUSTOMER SERVICE ORDERS, INQUIRIES, AND COMPLAINTS. CUSTOMER SERVICE MUST OPERATE DURING NORMAL BUSINESS HOURS (i.e., 9:00 AM - 5:00 PM, or similar) MONDAY-FRIDAY; DURING NON-BUSINESS HOURS, CUSTOMERS SHOULD BE ABLE TO LEAVE MESSAGES VIA VOICEMAIL OR A MESSAGE SERVICE. DESCRIBE HOW THE APPLICANT WILL COMPLY WITH THIS REQUIREMENT. LIST TELEPHONE NUMBERS THAT WILL BE USED FOR CUSTOMER SERVICE. APPLICANT MUST PROVIDE A TOLL-FREE NUMBER WHEREUPON INQUIRIES AND COMPLAINTS CAN BE SERVED.

- 4. PLEASE STATE WHETHER THE APPLICANT HAS EXPERIENCED CUSTOMER COMPLAINTS LODGED WITH ANY JURISDICTION'S REGULATORY AGENCY OR ATTORNEY GENERAL'S OFFICE FROM ANY NUMBER OF CUSTOMERS REPRESENTING MORE THAN 0.5% OF ALL CUSTOMERS SERVED BY THE APPLICANT WITHIN SUCH JURISDICTION.

[] NO
[] YES
IF YES:

PLEASE STATE THE NAME (INCLUDING CONTACT PERSON) OF EACH REGULATORY AGENCY OR ATTORNEY GENERAL'S OFFICE, DESCRIBE THE NATURE OF THE COMPLAINTS, EXPLAIN WHETHER AND HOW SUCH COMPLAINTS HAVE BEEN RESOLVED, AND STATE YOUR PLANS TO PREVENT SUCH COMPLAINTS FROM OCCURRING AGAIN.

AFFIDAVIT 1 - VERACITY OF APPLICATION AND AGREEMENT TO COMPLY WITH GEORGIA LAWS AND AGENCY RULES/ORDERS

Name: _____
Company: _____
Title/Position: _____
Address: _____

Tel. No. _____

THE INDIVIDUAL NAMED ABOVE (HEREINAFTER, "APPLICANT") PERSONALLY APPEARED BEFORE THE UNDERSIGNED, AN OFFICER DULY AUTHORIZED TO ADMINISTER OATHS. THE APPLICANT, AFTER FIRST BEING DULY SWORN, DEPOSES AND CERTIFIES THAT HE OR SHE HAS READ THE APPLICATION AND KNOWS THE CONTENTS THEREOF, AND THAT THE STATEMENTS MADE HEREIN ARE TRUE TO THE BEST OF HIS OR HER KNOWLEDGE AND BELIEF.

APPLICANT FURTHER AGREES TO ABIDE BY ALL APPLICABLE LAWS UNDER THE STATE OF GEORGIA, AS CODIFIED IN THE OFFICIAL CODE OF GEORGIA ANNOTATED; ALL APPLICABLE RULES AND REGULATIONS OF THE GEORGIA PUBLIC SERVICE COMMISSION; AND ALL FINDINGS, CONCLUSIONS, TERMS, AND CONDITIONS SET FORTH IN PERTINENT COMMISSION ORDERS.

UNDER PENALTIES OF PERJURY, APPLICANT DECLARES THAT THE STATEMENTS MADE IN THE FOREGOING APPLICATION, INCLUDING ACCOMPANYING STATEMENTS AND ATTACHMENTS ARE TRUE, COMPLETE, AND CORRECT. I UNDERSTAND THAT ANY FALSE OR MISLEADING INFORMATION IN, OR IN CONNECTION WITH, MY APPLICATION MAY BE CAUSE FOR DENIAL OR LOSS OF CERTIFICATE.

Signature of Affiant

Date

Subscribed and sworn before me this
_____ day of _____, 20_____.

(NOTARY PUBLIC)

(SEAL)

AFFIDAVIT 2 – UNIVERSAL ACCESS FUND

The Applicant hereby acknowledges that participation and compliance with the Universal Access Fund (UAF) requirements developed by the Georgia Public Service Commission, as mandated in the Telecommunications and Competition Act of 1995 (O.C.G.A. 46-5-160 and O.C.G.A. 46-5-167), will be complied with.

That Applicant further acknowledges that compliance with the requirements of the UAF is necessary to receive and maintain an active Certificate of Authority as an Inter-Exchange Company telephone service provider in Georgia.

The Applicant also agrees to file quarterly reports for quarters subsequent to the effective date of certification including any portion of the quarter when certificated, in conformance with the instructions attached hereto (see “Addendum – Universal Access Fund”) with the full understanding that not to do so may result in revocation of this same certificate. This attested to by signature below of proper authorized company official.

(COMPANY)

(SIGNATURE)

Subscribed and sworn before me this
_____ day of _____, 20____.

(SEAL)

(NOTARY PUBLIC)

AFFIDAVIT 3 – FAMILY VIOLENCE SHELTER CONFIDENTIALITY ACT

Personally appeared before me, an officer duly authorized to administer oaths, _____,
who, after being duly sworn, deposes and says that he or she is _____
of Applicant, certified telephone service provider or directory information provider.

1.
I make this affidavit on the basis of my personal knowledge.

2.

I have read the May 13, 2005 Order and the August 30, 2005 Amendatory Order in Georgia Public Service Commission (“Commission”) Docket No. 19553-U, Implementation of Senate Bill 147, the Family Violence Shelter Confidentiality Act of 2004 (O.C.G.A. § 46-5-7). I have also read the Commission Staff Memorandum dated May 1, 2007 (see “Addendum – Family Violence Shelter Confidentiality Act”) that summarizes the requirements under O.C.G.A. § 46-5-7 and the Commission orders issued pursuant to that Code Section of providers of telephone service in the State of Georgia or any other entity that publishes, disseminates, or otherwise provides telephone directory information or listings of telephone subscribers in the State of Georgia.

3.

The Applicant agrees that it will satisfy the minimum requirements set forth in the Commission orders and Staff Memorandum referenced in paragraph 2 of this affidavit to protect the confidentiality of the location and address of family violence shelters in the State of Georgia.

4.

Pursuant to O.C.G.A. § 46-5-7, the Applicant submits this affidavit as its plan to protect the confidentiality of the location and address of family violence shelters in the State of Georgia.

FURTHER AFFIANT SAITH NOT.

(COMPANY)

(SIGNATURE)

Subscribed and sworn before me this
_____ day of _____, 20____.

(SEAL)

(NOTARY PUBLIC)

AFFIDAVIT 4 – EXCHANGES

The Applicant agrees to provide local telecommunication services in conformance with the existing exchange boundary maps of the incumbent Local Exchange Carriers as approved by the Public Service Commission.

Instructions: (1) Under “INCUMBENT LOCAL EXCHANGE CARRIERS(S)”, list the names of all the incumbent LECs in whose territories you intend to operate. (2) Under “EXCHANGE(S)”, list each individual exchange name (e.g, Acworth, Adairsville, Albany, etc.) in which the applicant will be operating. Lists of exchange names can be downloaded from the Commission’s website at http://www.psc.state.ga.us/telecom/tl_forms/forms.asp. In lieu of writing or typing the individual exchange names on this document, it is acceptable to print “See attached list” in the first blank under “EXCHANGE(S)” and attach the appropriate list(s) of exchanges to the document.

INCUMBENT LOCAL EXCHANGE CARRIER(S) _____

EXCHANGE(S):

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(COMPANY)

(SIGNATURE)

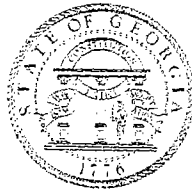
Subscribed and sworn before me this
_____ day of _____, 20____.

(NOTARY PUBLIC)

(SEAL)

COMMISSIONERS:

LAUREN "BUBBA" McDONALD, JR., CHAIRMAN
STAN WISE
ROBERT B. BAKER, JR.
CHUCK EATON
H. DOUG EVERETT



FILED

AUG 10 2010

DEBORAH K. FLANNAGAN
EXECUTIVE DIRECTOR

EXECUTIVE SECRETARY
G.P.S.C.

REECE McALISTER
EXECUTIVE SECRETARY

Georgia Public Service Commission

(404) 656-4501
(800) 282-5813

244 WASHINGTON STREET, S.W.
ATLANTA, GEORGIA 30334-5701

DOCKET # 32244
DOCUMENT # 130331

FAX: (404) 656-2341
www.psc.state.ga.us

INTERIM CERTIFICATE OF AUTHORITY TO
PROVIDE COMPETITIVE LOCAL EXCHANGE
TELECOMMUNICATION SERVICES

IN RE: DOCKET NO 32244: - Application of EPB Telecom, a Business Unit of the Electric Power Board of Chattanooga for a Certificate of Authority to Resell Competitive Local Exchange Services.

Certificate No. L-0489

Approved: August 3, 2010

Effective: 8-9-10

BY THE COMMISSION:

I.

BACKGROUND

On June 30, 2010, EPB Telecom, a Business Unit of the Electric Power Board of Chattanooga (hereinafter referred to as "the Applicant" or "EPB Telecom") filed with the Georgia Public Service Commission (hereinafter referred to as "the Commission") an application for a Certificate of Authority to Provide Competitive Local Exchange Services pursuant to O.C.G.A. § 46-5-163(b). In Administrative Session on August 3, 2010, the Commission voted to waive a public hearing on this matter.

The statutory authority governing certificates of authority of the type the Applicant is seeking is found at O.C.G.A. § 46-5-163. This code section provides that a telecommunications company, including a telecommunications services reseller, shall not provide telecommunications services without a certificate of authority issued by the Commission. A certificate may not be issued without adequate proof that the applicant possesses satisfactory financial and technical capability. A showing of public convenience and necessity is not a condition for issuing a competing certificate of authority.

In support of its application, EPB Telecom presented evidence through exhibits and additional materials routinely requested by the Commission Staff. After carefully analyzing

all evidence of the record in this case, the Commission makes the following findings of fact and conclusions of law:

**II.
FINDINGS OF FACT**

1. TECHNICAL CAPABILITY.

The Applicant intends to offer local exchange telecommunications services to business and residential customers in Georgia. Applicant has demonstrated adequate technical capabilities to implement its business plan through evidence regarding its management team, technical understanding and customer service plans.

2. FINANCIAL CAPABILITY.

The Applicant has demonstrated that it possesses sufficient and adequate financial capability to provide the local exchange telecommunications services for which it is seeking a Certificate of Authority.

3. OTHER ISSUES

The Applicant requested that the hearing be waived in this docket, and the Applicant agreed to comply with all of the requirements that the Commission set for a municipal competitive local exchange carrier in Docket No. 6329-U, Application of Marietta FiberNet for a Certificate of Authority to Provide Competitive Local Exchange Service. In light of these facts, the Commission Staff recommended that the hearing be waived in this docket.

The Staff also recommended that all of the conditions that the Commission applied to Marietta FiberNet and other municipal CLECs be included in EPB Telecom's certificate of authority.

**III.
CONCLUSIONS OF LAW**

The Commission Staff certifies the record in this docket to the Commission and issues this recommendation pursuant to O.C.G.A. §§ 46-2-58(d) and 50-13-17(a). Based upon the evidence, the Commission Staff finds that the Applicant has shown that it possesses satisfactory financial and technical capability pursuant to O.C.G.A. § 46-5-163(h) in order to be granted an interim certificate, consistent with the Commission's guidelines in Docket No. 5778-U for the issuance of interim certificates of authority for the provision of local exchange telecommunication service.

Having reviewed the record and considered this case, the Commission finds and concludes that it should adopt the Commission Staff's recommendation as its decision in

this docket.

WHEREFORE, it is

ORDERED, that the above numbered certificate is granted to EPB Telecom, a Business Unit of the Electric Power Board of Chattanooga, whose principal business address is 10 West Martin Luther King Boulevard, Chattanooga, Tennessee 37402, to resell competitive local exchange telecommunication services.

ORDERED FURTHER, that the Applicant is hereby granted authority to provide local exchange telecommunications services in the BellSouth Telecommunications, Inc. d/b/a AT&T Georgia exchanges set forth below:

Acworth	Clermont	Hamilton	Millen
Adairsville	Cochran	Hampton	Monticello
Albany	Colquitt	Harlem	Newnan
Alpharetta	Columbus	Hazelhurst	Newton
Americus	Concord	Hephzibah	Norcross
Appling	Conyers	Hogansville	Palmetto
Arlington	Cordele	Jackson	Panola
Athens	Covington	Jekyll Island	Pelham
Atlanta	Cumming	Jesup	Pine Mountain
Augusta	Cusseta	Johnson Corner	Pooler
Austell	Dallas	Jonesboro	Powder Springs
Baconton	Douglasville	Kingston	Richland
Bainbridge	Dublin	LaGrange	Rockmart
Barnesville	Duluth	Lake Park	Rome
Baxley	Eastman	Lawrenceville	Roopville
Blackshear	Eatonton	Leary	Rossville
Bogart-Statham	Elberton	Leesburg	Roswell
Bowdon	Fairburn	Lithonia	Royston
Bremen	Fayetteville	Loganville	Rutledge
Brunswick	Flowery Branch	Louisville	St. Simons
Buchanan	Forsyth	Lula	Island
Buford	Fort Valley	Lumber City	Sandersville-
Calhoun	Franklin	Lumpkin	Tennille
Camilla	Gainesville	Luthersville	Sardis
Carrollton	Gay	Lyons	Savannah
Cartersville	Gibson	Macon	Senoia
Cave Spring	Grantville	Madison	Smithville
Cedartown	Greensboro	Marietta	Smyrna
Chamblee	Greenville	McCaysville	Social Circle
Claxton	Griffin	McDonough	Sparks

Sparta	Thomasville	Wadley	Wrens
Stockbridge	Thomson	Warner Robins	Wrightsville
Stone Mountain	Tifton	Warrenton	Zebulon
Swainsboro	Tucker	Watkinsville	
Sylvester	Tybee Island	Waycross	
Tallapoosa	Valdosta	Waynesboro	
Temple	Vidalia	Woodbury	
Tennga	Villa Rica	Woodstock	

ORDERED FURTHER, that the Applicant is hereby granted authority to provide local exchange telecommunications services in the Tier II exchanges set forth below:

Chickamauga:
Chickamauga
High Point

Ringgold:
Ringold

Trenton:
Rising Fawn
Trenton
West Brow

ORDERED FURTHER, that as a condition precedent to the Applicant offering local service, that requires interconnection, in any of the requested exchanges, the Applicant must enter into an interconnection agreement with each affected incumbent local exchange company and obtain the formal approval of the Georgia Public Service Commission after said agreement is filed with the agency.

ORDERED FURTHER, that approval of the Tier II exchanges listed is conditioned upon the Applicant obtaining an interconnection agreement with the incumbent local exchange carrier which has been filed with and, if applicable, approved by the Commission. See O.C.G.A. § 46-5-164 (provides for interconnection under the Georgia Telecommunications Act); see also 47 U.S.C. § 251(c) (provides for interconnection under the Federal Telecommunications Act of 1996). In accordance with section 251(f) of the Federal Act, section 251(c) does not apply to rural telephone companies (as defined in Section 3(37) of the Federal Act) until such company has received a bona fide request for interconnection, services, or network elements, and the Commission determines that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 of the Federal Act.

ORDERED FURTHER, the Applicant shall file total service long-run incremental cost studies to ensure that its prices for its services are recovering such incremental costs. In addition, EPB Telecom shall comply with the conditions enumerated below:

1. EPB Telecom shall be expressly prohibited from engaging in any cross-subsidization with any of its subsidiaries or affiliates in the provision of telecommunications services. EPB Telecom shall develop and implement an appropriate accounting system, which shall demonstrate strict compliance with this

provision. Failure to comply with this condition will automatically initiate a proceeding to consider revocation of the interim certificate of authority granted. EPB Telecom shall submit this accounting system to the Commission for Commission Staff review. In addition, EPB Telecom shall file with the Commission quarterly reports containing data sufficient to demonstrate to the Commission Staff that it is in compliance with this paragraph.

2. Within ninety (90) days after the close of each year, EPB Telecom shall provide to the Commission a comprehensive report to include, but not necessarily limited to:
 - a. A full accounting for all franchise fees it pays to each and every municipality in which its services are offered
 - b. A full accounting for all franchise fees it receives;
 - c. A full description of its organizational structure, including the full names, mailing addresses, employers and occupations of each person on its Board of Directors and compensation for each Board member;
 - d. A full accounting showing the various assets utilized by EPB Telecom and their depreciated book value, including but not limited to: buildings; vehicles; equipment (including office and heavy industrial equipment); poles and conduits; billing systems; purchasing personnel or other purchasing department assets; contract services personnel or other marketing personnel assets; and where assets are shared, the pro rata allocation shall be fully explained;
 - e. A full accounting of all property tax, state or federal income taxes, and municipal taxes paid relating to the provision of telecommunication services; and
 - f. A full accounting of all payments, whether cash or paper transfers, made in lieu of payment of property, state, or federal income or other municipal taxes.
3. In no event shall EPB Telecom grant itself a franchise agreement according to terms and conditions more favorable than those governing the existing telecommunications carriers determined to be subject to the least favorable terms and conditions then in force.
4. In order to prevent cross-subsidization, EPB Telecom shall recover in its revenues for telecommunications services all of its costs actually incurred, included but not limited to, capital costs, depreciation, taxes, or in lieu of tax payments, if any franchise fees, labor and equipment costs, and any other costs. EPB Telecom is

ordered to file, annually, a total service (or total element, as the Commission Staff determines appropriate) long-run incremental cost study to demonstrate that it is not pricing below cost and that cross-subsidization does not occur.

5. EPB Telecom shall ensure that its prices for telecommunication services cover or incorporate the same franchise fees that apply to private enterprises offering the same kind of service.
6. EPB Telecom shall provide prior notice to the Commission of each instance that it seeks to obtain any funding from any arm of the government, including a loan, bond issue or use of the EPB Telecom's credit to obtain additional funding for any of its telecommunications operations.
7. EPB Telecom shall submit to the Commission an independent audit conducted no more than once a year to ensure compliance with all of their obligations under conditions of this certificate of authority and Commission rules.

The Commission may exercise its discovery rights to examine these matters, including but not limited to franchise fees, rights of way, and pole attachment agreements, in order to assist in determining that no unreasonable discrimination, unfair competition, cross-subsidy, anti-trust violation, or anti-competitive practice occurs.

ORDERED FURTHER, that the Applicant's tariff is hereby approved.

ORDERED FURTHER, that the Applicant shall contribute to the Universal Access Fund as prescribed in Docket No. 5825-U.

ORDERED FURTHER, that pursuant to O.C.G.A. § 46-5-168(b)(2) the certificate granted herein shall be subject to revocation if the Applicant fails to notify the Commission of any change in its contact address on file with the Commission, fails to comply with Commission requirements or Orders, or violates any applicable law or Commission Rule.

ORDERED FURTHER, that if the Applicant desires to do business in Georgia under any name which does not appear on this certificate, Applicant shall submit an application for amendment to its certification stating the name under which it plans to conduct business.

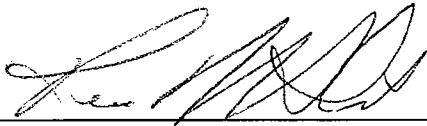
ORDERED FURTHER, that all statements of fact, law and regulatory policy contained within the preceding sections of this Order be adopted as findings and conclusions of law and conclusions of regulatory policy of the Commission.

ORDERED FURTHER, that jurisdiction over this matter is expressly retained for the

purpose of entering such further Order or Orders as this Commission may deem just and proper.

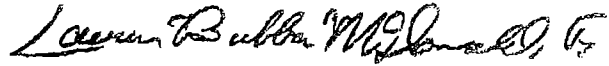
ORDERED FURTHER, that any motion for reconsideration or rehearing in this case shall not have the effect of staying this Order of Commission, except insofar as the Commission may otherwise provide.

BY ORDER OF THE GEORGIA PUBLIC SERVICE COMMISSION, this 3rd day of August 2010.



Reece McAlister
Executive Secretary

DATE: 8-6-10



Lauren "Bubba" McDonald, Jr.
Chairman

DATE: 8-9-10

RM/LM/MRussell

FOCUS™ Terms

Search Within

Original Results (1 - 1)

 Go →[Advanced...](#)View: **Full** | [Custom](#)

◀ 1 of 1 ▶

[Book Browse](#)**O.C.G.A. § 46-5-163** ([Copy w/ Cite](#))

Pages: 2

O.C.G.A. § 46-5-163

GEORGIA CODE
Copyright 2010 by The State of Georgia
All rights reserved.

*** Current through the 2010 Regular Session ***

TITLE 46. PUBLIC UTILITIES AND PUBLIC TRANSPORTATION
CHAPTER 5. TELEPHONE AND TELEGRAPH SERVICE
ARTICLE 4. TELECOMMUNICATIONS AND COMPETITION DEVELOPMENT

Go to the Georgia Code Archive Directory

O.C.G.A. § 46-5-163 (2010)

§ 46-5-163. Certificates of authority

(a) A telecommunications company including a telecommunications services reseller shall not provide telecommunications services without a certificate of authority issued by the commission. The provisions of Code Section 46-5-45 shall apply in circumstances where a telecommunications company is providing telecommunications services without a certificate issued by the commission.

(b) The commission shall have the authority to issue multiple certificates of authority for local exchange services upon a showing to the commission that an applicant possesses satisfactory financial and technical capability. Any certificate existing on July 1, 1995, shall remain effective and shall be considered a certificate of authority under this article. A certificate is not required for a telecommunications company to provide commercial mobile services. The commission shall also have the authority to issue certificates to long distance telecommunications carriers subject to federal court decisions, federal law, and regulations of the Federal Communications Commission.

(c) A showing of public convenience and necessity is not a condition for issuing a competing certificate of authority. Prior to July 1, 1998, only a currently certificated Tier 2 local exchange company may be issued a certificate of authority to compete for service in an area serviced by an existing Tier 2 local exchange company.

(d) Any certificate of authority issued by the commission is subject to revocation, suspension, or adjustment where the commission finds upon complaint and hearing that a local exchange company has engaged in unfair competition or has abused its market position.

(e) The commission shall grant certificates of authority in a timely manner and all such proceedings on complaints regarding abuse shall be resolved in a timely manner.

(f) All local exchange companies certificated by the commission shall be subject to the same

DDM 000322

rules and regulations applied by the commission to other local exchange companies certificated to provide local exchange services within the same area; provided, however, that in promulgating rules and regulations necessary to implement the provisions of this article, the commission may adopt rules and regulations for local exchange companies certificated after July 1, 1995, which vary from other rules and regulations applicable to the delivery of telecommunications services but which are appropriate and consistent to service being delivered by such local exchange companies and are adopted in the public interest.

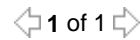
HISTORY: Code 1981, § 46-5-163, enacted by Ga. L. 1995, p. 886, § 2.

Title Note

[Chapter Note](#)

[Article Note](#)

View: **Full** | [Custom](#)



[Book Browse](#)



O.C.G.A. § 46-5-163 ([Copy w/ Cite](#))

Pages: 2



[About LexisNexis](#) | [Terms & Conditions](#) | [Contact Us](#)


[Copyright](#) © 2010 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

Illinois Commerce Commission

527 East Capitol Avenue, Springfield, Illinois, 62701

Prospective Carriers Certification Information

INFORMATION FOR PROSPECTIVE TELECOMMUNICATIONS CARRIERS

Competitive telecommunications carriers are required by law to be certified by the ICC prior to providing service in Illinois. This page provides prospective competitive local exchange carriers, ("CLECs"), and interexchange carriers, (IXCs"), the resources necessary to apply for certification. The application form provided below is designed to simplify the process of applying for local or interexchange certification in Illinois. By providing a completed application, (and all supporting materials requested in the application), at the time of filing, carriers reduce the time it takes to complete the certification process. This application does not replace the hearing process. For hearing alternatives, please review [83 Illinois Administrative Code Part 200, "Rules of Practice"](#) .

Many carriers augment their application with written testimony. Testimony, if provided, should be filed with the application or shortly thereafter. If at anytime during the certification process, your company files any additional information, please provide a copy to the Administrative Law Judge and all staff members participating in the docket. Please do not file your tariffs with the application or testimony. Tariffs should be filed after certification has been received and prior to providing service.

One signed verified original application should be filed with:

Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

Additionally, a copy of your application should be submitted to Doug Price of the Telecommunications Division at the same address listed above. If you have any questions concerning this application, please follow the link to the Frequently Asked Questions page provided below.

APPLICATION FOR CERTIFICATE TO BECOME A TELECOMMUNICATIONS CARRIER

Purpose Of This Form

This attached document may be printed out and used as a “fill in the blank form” or may be utilized as an example only. Please include only pages 3 – 17 when submitting information. Pages 1 – 2 and 18 – 20 are included in this document for information purposes only and should be excluded when filing. Additional pages should be incorporated only as necessary to provide the required documentation.

Entities That Should File This Form

Pursuant to 220 ILCS 5/13-401 of the Illinois Public Utilities Act (“IPUA”), no telecommunications carrier not possessing a certificate of public convenience and necessity or certificate of authority from the Commission shall transact any business in Illinois until it shall have obtained a certificate of service authority from the Commission. Entities that are required to obtain a certificate of authority and that should file this form include providers of: (1) Facilities Based Interexchange Service; (2) Resold Interexchange Service; (3) Resold Local Service; (4) Facilities Based Local Service; (5) Local and Interexchange Public Pay Telephone Service; (6) FCC Permitted and/or Licensed Cellular Radio (Wireless Telephone) Service; (7) Resold Cellular Radio (Wireless Telephone) Service; (8) Prepaid Wireless Telephone Service; and (9) any service not listed above that meets the definition of intrastate telecommunications service in Article XIII of the IPUA.¹

This sample application is not intended to apply to applicants seeking: (1) Prepaid Calling Service Provider Authority; (2) 9-1-1 System Provider Authority; or (3) Interconnected Voice-over-Internet Protocol Service Registration. Providers of these services should consult the

¹ Prepaid service means telephone service which is activated by payment in advance of a finite dollar amount or for a finite set of minutes and which, unless an additional finite dollar amount or finite set of minutes is paid in advance, terminates either (i) upon use by a customer and delivery by the carrier of an agreed-upon amount of service corresponding to the total dollar amount paid in advance, or (ii) within a certain period of time following initial purchase or activation. Prepaid services do not include those flat-rated services or packages of services, for which the subscribers of the services are required to pay the fixed monthly rates at the beginning of the month.

In distinguishing between Prepaid Calling Services and other prepaid services, Prepaid Calling Services should include prepaid wireline services not associated with a telephone number but with an access code.

With respect to Local Exchange and Interexchange Services, when distinguishing between Facilities Based and Resold Services, Facilities Based Services should include services provided by a telecommunications carrier that provisions the service utilizing switching equipment, transmission facilities and/or loop facilities that it owns or leases and operates.

In distinguishing between FCC Permitted and/or Licensed Cellular Radio (Wireless Telephone) Service and Resale of Cellular Radio (Wireless Telephone) Service, FCC Permitted and/or Licensed Cellular Radio (Wireless Telephone) Service should include service provided by an applicant that the Federal Communications Commission has issued a construction permit or an operating license to construct or operate a cellular radio system in the area as defined by the FCC, or portion of the area, for which the carriers seeks a Certificate of Service Authority.

Commission's website for further guidance on how to obtain authorization or to register to provide these services.

How to File

File this application via e-docket on the Commission's website at www.icc.illinois.gov or if unable to do so, file one original verified (notarized) application with the Chief Clerk. Mail documents to:

Chief Clerk's Office
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701

Questions

Questions regarding this form should be directed to the Telecommunications Division of the Illinois Commerce Commission at (217)524-5073.

(Applicant's Name) :
:
Application for a certificate of :
(local, interexchange, and/or wireless) :
Authority to operate as a (reseller :
and/or facilities based carrier) of :
telecommunications services :
in (list specific area) in the :
State of Illinois. :

**APPLICATION FOR CERTIFICATE TO BECOME A
TELECOMMUNICATIONS CARRIER**

I. GENERAL (To be completed by All Applicants)

1. Applicant's Name (including d/b/a, if any) FEIN # _____

Address: Street _____
City _____ State/Zip _____

Note: Assumed business names must be provided if and only if registered with the Illinois Secretary of State's Office.

2. Authority Requested: (Mark all that apply)

Interexchange Service (*Authorities: See Sections 13-401, 13-403 and 13-404 of the IPUA*)
____ Facilities Based Prepaid Interexchange Service
____ Facilities Based Non-Prepaid Interexchange Service
____ Resold Prepaid Interexchange Service
____ Resold Non-Prepaid Interexchange Service
____ Interexchange Public Pay Telephone Service

Local Exchange Service (*Authorities: See Sections 13-401, 13-404, and 13-405 of the IPUA*)
____ Facilities Based Prepaid Local Exchange Service
____ Facilities Based Non-Prepaid Local Exchange Service
____ Resold Prepaid Local Exchange Service
____ Resold Non-Prepaid Local Exchange Service
____ Local Exchange Public Pay Telephone Service

Cellular Radio/Wireless Telephone Service (*Authorities: See Section 13-401 of the IPUA*)

____ FCC Permitted or Licensed Prepaid Cellular Radio/Wireless Telephone Service

____ FCC Permitted or Licensed Non-Prepaid Cellular Radio/Wireless Telephone Svc.

____ Resold Prepaid Cellular Radio/Wireless Telephone Service

____ Resold Non-Prepaid Cellular Radio/Wireless Telephone Service

____ Other Telecommunications Services (Specify) (*Authorities: See Section 13-401 of the IPUA*)

3. For each service that the Applicant is requesting authority to provide, please specify the area or areas of the State for which the applicant is seeking authority to provide such service and the services (as designed in question 2 above) that will be provided in each area.
-
-
-

4. Contact Information - Please provide contact information, including name(s), address(es), telephone number(s), and e-mail address(es), for personnel or entities responsible for the areas below:

- a) Issues related to processing this application;
- b) Designated agent (*Note: Applicants must have an Illinois In-State Designated Agent listed. An additional Out-of-State Designate Agent is permitted, but not required.*)
- c) Business Operations (*Note: The contact numbers reported in this questionnaire are intended to be used by the ICC Staff to contact the Applicant as issues arise. They are not intended to be contact numbers used by customers or the general public. If separate contacts apply for different issue areas, please report the separate numbers by issue below.*)
 - i) Consumer issues;
 - ii) Customer complaint resolution;
 - iii) Technical and service quality issues;
 - iv) "Tariff" and pricing issues;
 - v) 9-1-1 issues;
 - vi) Security/law enforcement issues;
 - vii) Regulatory issues.

Note: To avoid possible revocation of service authority, the name and contact information above must be kept current. Changes in the applicants Designated Agent(s) should be directed to the Chief Clerk's Office of the ICC at 217-782-7434. All other changes should be directed to the Telecommunications Division of the ICC at 217-524-5073.

5. How is the Applicant organized?

Individual

Partnership

Corporation:

Date Corporation was formed: _____

State of incorporation: _____

Other (Specify) _____

6. Please attach a copy of articles of incorporation. Applicants that are not Illinois corporations should also submit a copy of its Certificate of Authority to Transact Business in Illinois as issued by the Secretary of State.

7. Has the Applicant been issued by the Federal Communications Commission a construction permit or an operating license to construct or operate a cellular radio system in the areas, or a portion of the area, for which the Applicant seeks a Certificate of Service Authority?

YES NO

If YES, please provide all relevant license or permit numbers:

II. MANAGERIAL (To be completed by All Applicants except Wireless Applicants)

1. Please attach evidence of the applicant's managerial and technical resources and ability to provide service. This may be in narrative form, in the form of resumes of key personnel, or a combination of these forms.

2. Please attach a current organization chart.

3. List officers of Applicant.

4. Does the Applicant currently, or has it in the past, held a certificate from the Illinois Commerce Commission?

YES NO

5. Does the Applicant currently, or has it in the past, provided service under any other name in Illinois?

YES NO

If YES, please provide all other names under which service is being or has been provided.

6. Is any affiliate of the Applicant providing, or has any affiliate provided, service in Illinois?

_____ YES _____ NO

If YES, please provide the names of all affiliates under which service is being or has been provided in Illinois.

7. Has the Applicant, or any principal in Applicant, been denied a Certificate of Service or had its certification revoked or suspended in Illinois under this or another name?

_____ YES _____ NO

If YES, describe fully. _____

8. Have there been any complaints or judgments levied against the Applicant in Illinois in this or another name?

_____ YES _____ NO

If YES, describe fully. _____

9. List jurisdictions other than Illinois in which the Applicant is offering service(s).

10. Has the Applicant, or any principal of the Applicant, been denied a Certificate of Service or had its certification revoked in any jurisdiction other than Illinois under this or another name?

_____ YES _____ NO

If YES, describe fully. _____

11. Have there been any complaints or judgments levied against the Applicant in any jurisdiction other than Illinois in this or another name?

_____ YES _____ NO

If YES, describe fully. _____

12. Does any officer of Applicant have an ownership or other interest in any other entity which has provided or is currently providing telecommunications services? _____ YES _____ NO

If YES, please list, by officer, each entity in which the officer has an ownership or other interest.

13. How will Applicant bill for its service(s)? (At a minimum, describe how often the Applicant will bill for service and details of the billing statement.)

14. How does Applicant propose to handle service, billing, and repair complaints? (At a minimum, describe Applicant's internal process for complaint resolution, the complaint escalation process, and the timeframe and process by which the customer is notified by Applicant that they may seek assistance from the Commission.)

15. Will personnel be available at Applicant's business office during regular working hours to respond to inquiries about service or billing? _____ YES _____ NO

16. What telephone number(s) would a customer use to contact the Applicant?

17. If granted authority to operate as provider of anything other than a Pay Telephone service, will the applicant file tariffs prior to providing service in Illinois and within 2 years of Application approval?

_____ YES _____ NO

18. How many employees does the Applicant employ? _____

19. Has the Applicant reviewed all ICC rules applicable to the services it seeks to provide?

_____ YES _____ NO

Note: See <http://www.ilga.gov/commission/jcar/admincode/083/083parts.html> for the ICC's Title 83: Public Utility Rules.

20. Will the Applicant abide by all ICC rules applicable to the services it seeks to provide?

_____ YES _____ NO

21. If granted the authority to operate as a telecommunications provider, will the Applicant comply with all the applicable filing requirements listed in Appendix A?

_____ YES _____ NO

22. If granted the authority to operate as a telecommunications provider, will the applicant remit all applicable taxes, contributions, or other assessments specified in Appendix A?

_____ YES _____ NO

III. FINANCIAL (To be completed by All Applicants except Wireless Applicants)

1. Please attach evidence of Applicant’s financial fitness through the submission of its most current income statement, balance sheet, chart of accounts and any other appropriate documentation of applicant’s financial resources and ability to provide service.

2. Does the Applicant have a financial relationship with any other companies?

_____ YES _____ NO

If YES, please provide the names of all companies with which the Applicant has a financial relationship and a brief explanation of the relationship.

3. Will the Applicant keep its books and records in Illinois? _____ YES _____ NO

Note: If the Applicant will not keep its books and records in Illinois, then the Applicant must request a waiver of Code Part 250.

4. Has the applicant or any other company with which the Applicant has a financial arrangement filed for bankruptcy within the last 7 years?

_____ YES _____ NO

If YES, please explain: _____

IV. TECHNICAL (To be completed by All Applicants except Wireless Applicants)

1. Please describe the nature of service to be provided (e.g., operator services, internet, debit cards, long distance service, data services, local service, prepaid local service).

2. Does Applicant utilize its own equipment and/or facilities? _____ YES _____ NO

If YES, please provide a brief description of the facilities Applicant owns and intends to utilize.

If YES, please explain what services will be offered with these facilities and where the Applicant will utilize its own facilities.

If YES, please include evidence that Applicant possesses the necessary technical resources to deploy and maintain the said facilities.

If YES, and if the Applicant is a switch based provider, please provide an attachment that includes the following information regarding each switch: (i) switch type, (ii) address, (iii) CLLI code, (iv) location of remotes or POIs, and (v) any tandems to which the switch is homed.

3. Does Applicant lease equipment and/or facilities? _____ YES _____ NO

If YES, please provide a brief description of the facilities the Applicant leases and the entity or entities from which such equipment or facilities are leased.

If YES, please explain what services will be provided with these facilities and where the Applicant will utilize these leased facilities.

If YES, please include evidence that Applicant possesses the necessary technical resources to maintain and operate said facilities.

4. Does Applicant resell services? _____ YES _____ NO

If YES, please provide a brief description of the entity or entities from which wholesale service is purchased.

If YES, please explain what services will be provided through resale and where the Applicant will provide resold services.

5. Does the Applicant provide its own repair service?

_____ YES _____ NO

If NO, please provide the name of the entity or entities providing repair service for the Applicant.

6. Will technical personnel be available at all times to assist customers with service problems?

_____ YES _____ NO

If NO, please provide the hours of assistance.

7. If Applicant intends to provide Public Pay Telephone service, will the equipment utilized comply with FCC requirements and Finding (9) of the Commission Order entered in Docket No. 84-0442 on June 11, 1986, including, but not limited to: (a) touch dialing; (b) access to 9-1-1 and "0" operator dialing without use of a coin; (c) rules governing use of payphones by disabled persons; (d) ability to complete local and long-distance calls; (e) unlimited duration for local calls; and (f) a message explaining the telephone's general operations, dialing instructions for emergency assistance, payphone owner's name, method of reporting service problems and method of receiving credit for faulty calls? _____ YES _____ NO

8. If Applicant intends to provide Public Pay Telephone service, please explain the method the Applicant will used to comply with Section 771.330 of the ICC's rules.

Note: See <http://www.ilga.gov/commission/jcar/admincode/083/08300771sections.html> for the ICC's Pay Telephone Service Provider rules.

V. WAIVERS (To be completed by All Applicants except Wireless Applicants)

Note: If Applicant is seeking any waivers or variances of Commission rules and regulations in this proceeding, then, other than when explained below, please attach an explanation of why the Applicant is seeking any waiver or variance.

Local Exchange Service authority applicants under Sections 13-401, 13-404 and/or 13-405 generally seek waivers of Part 710, Section 735.180 of Part 735 and Part 250. Additionally, a waiver from Parts 730.115 and 732.60 may be requested for those applicants that will only be providing data services.

Interexchange Service authority applicants under Sections 13-401, 13-403 and 13-404 generally request waivers of Parts 710, 735 and 250 of Title 83 of the Illinois Administrative Code

Public Pay Telephone Service authority applicants under Sections 13-401, 13-403, 13-404, and/or 13-405 generally request waivers of Parts 710, 735 and 250 of Title 83 of the Illinois Administrative Code

Local Exchange Service Please indicate which waivers Applicant is requesting.

- Part 710 Uniform System of Accounts for Telecommunications Carriers
 - Part 735.180 Directories (within Part 735 Procedures Governing the Establishment of Credit, Billing, Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois)
 - Part 730.115 and 732.60 Service Quality and Customer Credit Quarterly Reporting – Waiver is available for carriers providing Data Services only. (ref. 13-517c)
 - Part 250 Public Utility Books and Accounts (maintaining books and records out of state)
 - Others (Please indicate which additional waivers Applicant is requesting and explain why Applicant is requesting each waiver/variance)
-
-

Interexchange Service Please indicate which waivers Applicant is requesting.

- Part 710 Uniform System of Accounts for Telecommunications Carriers
- Part 735 Procedures Governing the Establishment of Credit, Billing, Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois

_____ Part 250 Public Utility Books and Accounts (maintaining books and records out of state)

_____ Others (Please indicate which additional waivers Applicant is requesting and explain why Applicant is requesting each waiver/variance)

Local and Interexchange Public Pay Telephone Service Please indicate which waivers Applicant is requesting.

_____ Part 710 Uniform System of Accounts for Telecommunications Carriers

_____ Part 735 Procedures Governing the Establishment of Credit, Billing, Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois

_____ Part 250 Public Utility Books and Accounts (maintaining books and records out of state)

_____ Others (Please indicate which additional waivers Applicant is requesting and explain why Applicant is requesting each waiver/variance)

1. If the Applicant is requesting a waiver of Part 710, what circumstances warrant a departure from the prescribed Uniform System of Accounts (“USOA”)?

2. If the Applicant is requesting a waiver of Part 710, then will records be maintained in accordance with Generally Accepted Accounting Principles (“GAAP”)?

_____ YES _____ NO

3. If the Applicant is requesting a waiver of Part 710, then will applicants accounting system provide an equivalent portrayal of operating results and financial condition as the USOA?

_____ YES _____ NO

4. If the Applicant is requesting a waiver of Part 710, then will applicant maintain its records in sufficient detail to facilitate the calculation of all applicable taxes and surcharges?

_____ YES _____ NO

5. If the Applicant is requesting a waiver of Part 710, then does the accounting system currently in use by Applicant provide sufficiently detailed data for the preparation of Illinois Gross Receipts Tax returns?

_____ YES _____ NO

If YES, What specific accounts or sub-accounts provide this data?

6. If the Applicant is requesting a waiver of Part 710, then will the Applicant provide annual audited statements when required or requested subsequent to granting of the waiver?

_____ YES _____ NO

Note: See <http://www.icc.illinois.gov/forms/results.aspx?st=3&t=2> for Annual Reports instructions for detail.

7. If the Applicant is requesting a waiver of Part 710, does the Applicant understand that the requested waiver of Part 710 will not excuse it from compliance with future Commission rules or amendments to Part 710 otherwise applicable to the Company?

_____ YES _____ NO

VI. TELEPHONE ASSISTANCE PROGRAMS (To be completed by Local Exchange Service Applicants)

1. Has the Applicant signed and returned the ITAC Membership Application and Agreement to Commission Staff?

_____ YES _____ NO

Note: See <http://www.icc.illinois.gov/telecommunications/Certification.aspx> for application forms.

2. Will the Applicant's billing system be able to distinguish between resale and facilities based service for the collection of the ITAC line charge?

_____ YES _____ NO

3. Has the Applicant signed and returned the Universal Telephone Access Corporation (UTAC) - Membership Application to Commission Staff?

_____ YES _____ NO

Note: See <http://www.icc.illinois.gov/telecommunications/Certification.aspx> for application forms.

4. Will the Applicant solicit, collect, and remit the voluntary contributions from its telephone subscribers to support the Telephone Assistance Programs?
 YES NO
5. Does the Applicant realize that it will not be able to receive any of the federal reimbursements for the Lifeline and Link-Up Programs if it is not an eligible carrier?
 YES NO
6. Does the Applicant plan on filing to become an Eligible Telecommunications Carrier?
 YES NO

VII. 911 SERVICE (To be completed by Local Exchange Service Applicants)

1. Will the Applicant ensure that 911 traffic is handled in accordance with the 83 Illinois Administrative Code Part 725 and the Emergency Telephone System Act?
 YES NO

Note: See <http://www.icc.illinois.gov/911/> for links to the Emergency Telephone System Act and other 911 related rules and regulations.

2. Who will be responsible for building and maintaining the 911 database for your local exchange customers?
3. How often will the Applicant update the 911 database with customer information?
4. Please explain the procedures the Applicant will use to collect 911 surcharges and transmit them to the local 911 systems.

VIII. PREPAID SERVICE (To be completed by Local Exchange Service Applicants that Provide Prepaid Service)

1. Will customers have the ability to sign up with any long distance company they choose?
 YES NO
2. Will customers have the ability to use dial around long distance companies?
 YES NO
3. Will customers have access to the Illinois Relay Service?
 YES NO

4. Will customers be able to make 1-800 calls for free?

_____ YES _____ NO

5. Will the Applicant offer operator services?

_____ YES _____ NO

6. Please describe how applicant plans to collect the monthly fee to be paid in advance.

7. Will customers' monthly bills show a breakdown of services, features, surcharges, taxes, etc.?

_____ YES _____ NO

8. Will customers pay an installation fee?

_____ YES _____ NO

If YES, will payment arrangements be offered for the installation fee?

_____ YES _____ NO

9. Will telephone service be in the Applicant's name or the customer's name?

_____ YES _____ NO

If YES, please describe how information will appear in data bases, such as 9-1-1, directory assistance, etc.?

10. Will applicant offer prepaid service as a monthly service or as a usage service?

_____ Monthly _____ Usage

11. Will applicant provide a warning when the remaining value of service is about to cease?

_____ YES _____ NO

If YES, is the customer given more than one notice of the remaining value of service?

_____ YES _____ NO

If YES, how much advance notice is given to the customer of the remaining value of service?

12. If the customer is in the middle of a call will they be disconnected when the remaining value of service has expired?

_____ YES _____ NO

If YES, are customers made aware of potentially being disconnected during a call when the remaining value of service expires?

_____ YES _____ NO

13. When does the timing of a call start? _____

14. If the person called does not answer, is any time deducted from the customer's account?

_____ YES _____ NO

15. Will there be any other instances in which the Company would disconnect a customer, other than running out of prepaid time?

_____ YES _____ NO

If YES, please explain. _____

16. When a customer runs out of time is their phone immediately disconnected or on suspension?

_____ YES _____ NO

If YES, will they still be able to receive calls?

_____ YES _____ NO

17. Are the Applicant's services available to TTY callers?

_____ YES _____ NO

18. How will the Applicant handle a complaint from a customer who disputes the amount of time used or remaining?

19. The Public Utilities Act requires a local calling area that has no time or duration charges. How will the Applicant define each customer's untimed local calling area?

(Signature of Applicant)

VERIFICATION

This application shall be verified under oath.

OATH

State of _____)
) ss
County of _____)

_____ makes oath and says that he is _____
(Insert here the name of affiant) (Insert the official title of the affiant)
of _____
(Insert here the exact legal title or name of the Applicant)

that he has examined the foregoing application and that to the best of his knowledge, information, and belief, all statements of fact contained in the said application are true, and the said application is a correct statement of the business and affairs of the above-named applicant in respect to each and every matter set forth therein.

(Signature of affiant)

Subscribed and sworn to before me, a Notary Public/ _____
(Title of person authorized to administer oaths)

in the State and County above named, this ____ day of _____, _____.

(Signature of person authorized to administer oath)

Appendix A

Local Exchange Telecommunication Carriers Required Reporting

The following is a list of various reporting requirements. This list provides frequently applicable reporting requirements. It is not intended to be an exhaustive list of all reporting requirements that telecommunications providers might be subject to under Illinois rules, regulations, Orders of the Commission, etc.

Report	Timeframe	Statute
UTSAP (Universal Telephone Service Assistance Program)	Quarterly	Code Part 757.245
Link-up	Quarterly	Code Part 757.120
Life Line	Annually by August 1st	Code Part 757.430
Designated Agent	Annually by January 31st or 15 days after any change to the DA	Code Part 215.50
Annual Report (AR-13)	Annually by March 31 st	Code Part 210.30
Telecommunication Access for Persons with Disabilities (ITAC)	Monthly	Code Part 755.505
Public Utilities Fund Tax (PUF Tax) (Annual Gross Revenue Tax Return)	Annually by March 31 st	PUA Section 5-109
Answer Time Exception Reports	Monthly (15 days after the end of the month)	Code Part 730.510.b.2
Annual Answer Time Reports	Annually on or before March 1 st	Code Part 730.510.b
Service Quality and Customer Credit Quarterly Reporting	Quarterly (no later than 30 days after the end of the quarter) reported online	Code Part 730.115 & Code Part 732.60
IUSF (Illinois Universal Service Fund) (ISCECA)	Respond to Two Staff Annual Data Requests: Initial (June) and True-Up (November)	PUA Section 13.301.d
Competition Data Request	Annually	PUA Section 13-407 – Implemented Through Annual Commission Orders
Accident Reporting	Occurrence Based Reporting	Code Part 220.10 (ILECs only)
Outage Reporting	Occurrence Based Reporting	Code Part 730.550 Code Part 785.40

Local Exchange Telecommunication Carriers Required Taxes and Fees

The following is a list of commonly applicable telecommunications taxes and fees. This list provides frequently applicable requirements. It is not intended to be an exhaustive list of all such requirements that telecommunications providers might be subject to under Illinois rules, regulations, Orders of the Commission, etc.

Report	Agency	Contact
<u>Illinois Excise Tax</u>	Illinois Department of Revenue	IDOR 1-800-732-8866 1-217-783-3336 (TDD: 1-800-544-5304)
<u>State Infrastructure Maintenance Fee</u>	Illinois Department of Revenue	IDOR 1-800-732-8866 1-217-783-3336 (TDD: 1-800-544-5304)
<u>Public Utility Fund</u>	Illinois Commerce Commission	ICC (Bureau of Planning and Operations) 217-524-7726
<u>Simplified Municipal Telecommunications Tax</u>	Illinois Department of Revenue	IDOR 1-800-732-8866 1-217-783-3336 (TDD: 1-800-544-5304)
<u>State Universal Service Fund</u>	Illinois Small Company Exchange Carrier Association (ISCECA)	ISCECA 1-217-698-2700
<u>Wireless Emergency Telephone Safety Act</u>	Illinois Commerce Commission	ICC (Bureau of Planning and Operations) 217-524-7726
<u>Universal Telephone Service Assistance Program (UTSAP)</u>	Illinois Commerce Commission	UTSAP Administrator Post Office Box 1176 Springfield, IL 62705 ICC (Consumer Services Division) 217-782-2024
<u>Universal Telephone Assistance Corporation</u>	Illinois Commerce Commission	ICC (Consumer Services Division) 217-782-2024
<u>Illinois Telephone Assistance Corporation</u>	Illinois Commerce Commission	ICC (Consumer Services Division) 217-782-2024
<u>Municipal 911</u>	Municipalities	Administered by Individual Municipalities

Wireless ETC Carriers Required Reporting

The following is a list of commonly applicable wireless ETC carrier reporting requirements. This list provides frequently applicable requirements. It is not intended to be an exhaustive list of all such requirements that telecommunications providers might be subject to under Illinois rules, regulations, Orders of the Commission, etc.

Report	Timeframe	Statute
Operator Answer Time	Annually on July 1st	Code Part 736.505(a)
Business and Repair Answer Time	Annually on July 1st	Code Part 736.505(b)
Dropped Calls and Signal Strength	Annually on July 1st	Code Part 736.515
Service Outages	Annually on July 1st	Code Part 736.520
Installation Requests – Failure to Provide Service	Annually July on 1st	Code Part 736.525
Trouble Reports	Annually on July 1st	Code Part 736.530

(220 ILCS 5/13-401) (from Ch. 111 2/3, par. 13-401)
(Section scheduled to be repealed on July 1, 2013)
Sec. 13-401. Certificate of Service Authority.

(a) No telecommunications carrier not possessing a certificate of public convenience and necessity or certificate of authority from the Commission at the time this Article goes into effect shall transact any business in this State until it shall have obtained a certificate of service authority from the Commission pursuant to the provisions of this Article.

No telecommunications carrier offering or providing, or seeking to offer or provide, any interexchange telecommunications service shall do so until it has applied for and received a Certificate of Interexchange Service Authority pursuant to the provisions of Section 13-403. No telecommunications carrier offering or providing, or seeking to offer or provide, any local exchange telecommunications service shall do so until it has applied for and received a Certificate of Exchange Service Authority pursuant to the provisions of Section 13-405.

Notwithstanding Sections 13-403, 13-404, and 13-405, the Commission shall approve a cellular radio application for a Certificate of Service Authority without a hearing upon a showing by the cellular applicant that the Federal Communications Commission has issued to it a construction permit or an operating license to construct or operate a cellular radio system in the area as defined by the Federal Communications Commission, or portion of the area, for which the carrier seeks a Certificate of Service Authority.

No Certificate of Service Authority issued by the Commission shall be construed as granting a monopoly or exclusive privilege, immunity or franchise. The issuance of a Certificate of Service Authority to any telecommunications carrier shall not preclude the Commission from issuing additional Certificates of Service Authority to other telecommunications carriers providing the same or equivalent service or serving the same geographical area or customers as any previously certified carrier, except to the extent otherwise provided by Sections 13-403 and 13-405.

Any certificate of public convenience and necessity granted by the Commission to a telecommunications carrier prior to the effective date of this Article shall remain in full force and effect, and such carriers need not apply for a Certificate of Service Authority in order to continue offering or providing service to the extent authorized in such certificate of public convenience and necessity. Any such carrier, however, prior to substantially altering the nature or scope of services provided under a certificate of public convenience and necessity, or adding or expanding services beyond the authority contained in such certificate, must apply for a Certificate of Service Authority for such alterations or additions pursuant to the provisions of this Article.

The Commission shall review and modify the terms of any certificate of public convenience and necessity issued to a telecommunications carrier prior to the effective date of this Article in order to ensure its conformity with the requirements and policies of this Article. Any Certificate of Service Authority may be altered or modified by the Commission, after notice and hearing, upon its own motion or upon application of the person or company affected. Unless

DDM 000345

exercised within a period of two years from the issuance thereof, authority conferred by a Certificate of Service Authority shall be null and void.

(b) The Commission may issue a temporary Certificate which shall remain in force not to exceed one year in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice and hearing, pending the determination of an application for a Certificate, and may by regulation exempt from the requirements of this Section temporary acts or operations for which the issuance of a certificate is not necessary in the public interest and which will not be required therefor.

(Source: P.A. 87-856.)

(220 ILCS 5/13-404) (from Ch. 111 2/3, par. 13-404)

(Section scheduled to be repealed on July 1, 2013)

Sec. 13-404. Any telecommunications carrier offering or providing the resale of either local exchange or interexchange telecommunications service must first obtain a Certificate of Service Authority. The Commission shall approve an application for a Certificate for the resale of local exchange or interexchange telecommunications service upon a showing by the applicant, and a finding by the Commission, after notice and hearing, that the applicant possesses sufficient technical, financial and managerial resources and abilities to provide the resale of telecommunications service.

(Source: P.A. 84-1063.)

(220 ILCS 5/13-405) (from Ch. 111 2/3, par. 13-405)

(Section scheduled to be repealed on July 1, 2013)

Sec. 13-405. Local exchange service authority; approval. The Commission shall approve an application for a Certificate of Exchange Service Authority only upon a showing by the applicant, and a finding by the Commission, after notice and hearing, that the applicant possesses sufficient technical, financial, and managerial resources and abilities to provide local exchange telecommunications service.

(Source: P.A. 90-185, eff. 7-23-97.)

Instructions for the Application for a Communications Service Provider (CSP) Certificate of Territorial Authority and for a Notice of Change

Pursuant to I.C. 8-1-32.5, a Communications Service Provider that seeks to offer communications service to Indiana customers after June 30, 2009 must apply to the IURC for a certificate of territorial authority.

Definitions

Communications service provider (I.C. 8-1-32.5-4): A person or entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of Commercial Mobile Radio service (CMRS) as defined in 47 U.S.C. 332.

Communications Service (I.C. 8-1-32.5-3) refers to any of the following:

- (1) Telecommunications service as defined in 47 U.S.C. 153(46)
- (2) Information service as defined in 47 U.S.C. 153(20).

The term includes:

- (1) Video service
- (2) Broadband service
- (3) Advanced services
- (4) Internet protocol enabled service

A communications service provider that has an existing Certificate of Territorial Authority (CTA), a Certificate of Franchise Authority (CFA), or a certificate of public convenience and necessity issued before July 1, 2009, and in effect on July 1, 2009, is not required to submit an application under this section for as long as the certificate remains in effect. However, if the CSP provides or plans to provide communications services, as defined above, other than those for which it holds an existing CTA, it should file with the IURC a Notice of Change updating the CTA. The Notice of Change should include the required information regarding the other service(s). (See Notice of Change Procedures on page 3 of this document.)

Requirements for CSP Application

An Application can be obtained from the IURC's website and must include:

- complete responses to the questions on the application form;
- proof of the company's authorization from the Indiana Secretary of State to transact business in Indiana, including registration of any assumed business names;
- the provider's most recent balance sheet or parent company's balance sheet if Indiana specific financial information is not available (not required for CMRS providers);
- information attesting to the carrier's managerial and technical qualifications, such as biographies of corporate officers and/or personnel of the company who are key to Indiana operations (not required for CMRS providers);
- a description of each service area for which the applicant proposes deployment of the communications services;
- a statement signed, under penalty of perjury, by an officer or another person authorized to bind the provider, that affirms the provider has complied with, or agrees to comply with the criteria set forth under IC 8-1-32.5-6(b)(3); and
- a completed and signed Affidavit.

Applicant shall file an original and five (5) paper copies of its application as well as an electronic copy of the filed document in PDF format. The Commission will assign a Cause Number to the application which will become the Certificate Number upon approval.

Confidential Treatment of Information

If the applicant believes the financial information required to be submitted with the application is confidential in accordance with IC 8-1-2-29 and IC 5-14-3, the applicant should include a sworn statement that describes (1) the nature of the confidential information; (2) the reasons why the information should be treated as confidential information pursuant to IC 8-1-2-29 and IC 5-14-3; and (3) the efforts the applicant has made to maintain the confidentiality of the information. One copy of the confidential financial information should be submitted on light green paper, in a sealed envelope clearly marked confidential, and will be treated as confidential on a preliminary basis and excepted from public disclosure in accordance with Ind. Code § 5-14-3.

IURC Review

A summary of the CSP application will be posted on the IURC's website on the first Monday (or first business day if Monday is a legal Holiday) after the application has been filed. If it is evident that the application is not complete, the IURC will have the option of not posting the application summary and will send written correspondence to the applicant enumerating the deficiencies. If the applicant re-files an updated application it will be considered to be a new application.

Once the application summary is posted, it will be assigned to a communications analyst with the IURC Communications Division for a more detailed review to ensure completeness, accuracy and the adequacy of the information filed. Notice of the application shall be posted on the Commission website for 30 days. The Commission will issue an order after completion of the 30-day posting period if a formal hearing is not requested and once any questions from the Commission are answered.

Hearings

The Commission shall hold an evidentiary hearing if one is requested during the 30-day posting period by one of the following parties¹:

- the communications service provider;
- a facilities-based local exchange carrier offering service in a service area identified in the provider's application under IC 8-1-32.5-6(a)(4) of this chapter;
- the OUCC created by 8-1-1.1-2; or
- the Commission on its own motion.

When an evidentiary hearing is requested by one of the above parties, the IURC will conduct a hearing, subject to the requirements for hearing under IC 8-1-2 for public utilities. Ex Parte communication rules pursuant to 170 IAC 1-1.5 apply to this process.

¹ The FCC determines market entry of CMRS providers pursuant to 47 CFR Chapter 1 Part 13.

Notice of Change Procedures

Pursuant to I.C. 8-1-32.5-12, the filing of a Notice of Change in Certificate of Territorial Authority is required if there are subsequent changes to the Certificate of Territorial Authority, such as: 1) a change in ownership operation, control or corporate organization of the provider, including merger, acquisition or reorganization; 2) changes to the name of the certificated entity or adoption of, or change to, an assumed business name or Indiana d/b/a; 3) a change in the provider's principal business address; 4) any sale, lease, or transfer of the CTA to another CSP pursuant to I.C. 8-1-32.5-10²; 5) a relinquishment of the CTA; 6) a change in communications services provided in one or more of the service areas identified in the providers application for Certificate of Territorial Authority (not applicable to CMRS providers); or 7) change in one or more of the service areas identified in the provider's CTA application that would increase or decrease the territory within the service area.³

How to File a Notice of Change Form

The Notice of Change form can be found on the Commission's website at <http://www.in.gov/iurc/2400.htm> and must include complete responses to the questions on the form regarding the applicable change(s) and a copy of the Certificate of Authority from the Indiana Secretary of State in the case of a change in legal or assumed name.

Applicant shall file an original and two (2) paper copies of its Notice of Change as well as an electronic copy of the filed document in PDF format or use the Commission's procedures for electronic filing. (See www.in.gov/iurc/ and go to "electronic filing system"). The notice must be filed with the Commission at least thirty (30) days prior to the effective date of the change. The Communications Division shall assign the notice a tracking number and process the filing as a non-docketed case. A summary of the Notice of Change shall be posted on the Commission's website until 30 days from the date the notice was received. The Communications Division shall acknowledge the notice after completion of the posting period if a formal hearing is not requested and once any questions from the Communications Division are answered.

A CTA Application or a Notice of Change should be submitted to:

Indiana Utility Regulatory Commission
Communications Division
National City Center
101 West Washington Street
Suite 1500 East
Indianapolis, IN 46204

Please note that the electronic filing system may be used for a Notice of Change, however, the IURC is not able to accept CTA applications via the electronic filing system.

Notice of the receipt of an Application or Notice of Change will be posted to the Commission website at: <http://www.in.gov/iurc/2337.htm>

Questions should be directed to the Communications Division at (317) 232-5559.

² A CSP must have an Indiana CTA to acquire a CTA from another CSP. If the acquiring company does not have a current Indiana CTA it may file Attachment A, Application for Transfer of a Certificate of Territorial Authority for Communications Service Providers, along with the Notice of Change Form.

³ Telecommunications Providers of Last Resort must comply with I.C. 8-1-32.4 *et seq.*



Information Maintained by the Office of Code Revision Indiana Legislative Services Agency
IC 8-1-32.5

Chapter 32.5. Certificates of Territorial Authority for Communications Service Providers

IC 8-1-32.5-1

Application of chapter

Sec. 1. This chapter applies to a communications service provider that seeks to offer communications service to Indiana customers after June 30, 2009.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-2

"Commission"

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-3

"Communications service"

Sec. 3. (a) As used in this chapter, "communications service" refers to any of the following:

- (1) Telecommunications service (as defined in 47 U.S.C. 153(46)).
- (2) Information service (as defined in 47 U.S.C. 153(20)).
- (b) The term includes:
 - (1) video service (as defined in IC 8-1-34-14);
 - (2) broadband service;
 - (3) advanced services (as defined in 47 CFR 51.5); and
 - (4) Internet Protocol enabled services;

however classified by the Federal Communications Commission.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-4

"Communications service provider"

Sec. 4. As used in this chapter, "communications service provider" means a person or an entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of commercial mobile service (as defined in 47 U.S.C. 332).

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-5

"Facilities based local exchange carrier"

Sec. 5. As used in this chapter, "facilities based local exchange carrier" means a local exchange carrier (as defined in 47 U.S.C. 153(26)) that provides telephone exchange service (as defined in 47 U.S.C. 153(47)) or exchange access (as defined in 47 U.S.C. 153(16)):

- (1) exclusively over facilities owned or leased by the carrier; or

- (2) predominantly over facilities owned or leased by the carrier, in combination with the resale of

the telecommunications service (as defined in 47 U.S.C. 153(46)) of another carrier.
As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-6

Certificate of territorial authority; application; required documents; certificates issued before July 1, 2009; confidential information

Sec. 6. (a) Except as provided in subsection (c), before a communications service provider may offer communications service to customers in Indiana, the communications service provider must apply to the commission for a certificate of territorial authority. A communications service provider that seeks a certificate under this chapter shall submit an application on a form prescribed by the commission. The form prescribed by the commission must require the communications service provider to report the following information:

(1) The provider's legal name and any name under which the provider does or will do business in Indiana, as authorized by the secretary of state.

(2) The provider's address and telephone number, along with contact information for the person responsible for ongoing communications with the commission.

(3) The legal name, address, and telephone number of the provider's parent company, if any.

(4) A description of each service area in Indiana in which the provider proposes to offer communications service.

(5) For each service area identified under subdivision (4), a description of each type of communications service that the provider proposes to offer in the service area.

(6) For each communications service identified under subdivision (5), whether the communications service will be offered to residential customers or business customers, or both.

(7) The expected date of deployment for each communications service identified under subdivision (5) in each service area identified in subdivision (4).

(8) A list of other states in which the provider offers communications service, including the type of communications service offered.

(9) Any other information the commission considers necessary to:

(A) monitor the type and availability of communications service provided to Indiana customers; and

(B) prepare the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4.

The commission may charge a fee for filing an application under this section. Any fee charged by the commission under this subsection may not exceed the commission's actual costs to process and review the application under section 8 of this chapter.

(b) A communications service provider shall also submit, along with the application required by subsection (a), the following documents:

(1) A certification from the secretary of state authorizing the provider to do business in Indiana.

(2) Information demonstrating the provider's financial, managerial, and technical ability to provide each communications service identified in the provider's application under subsection (a)(5) in each service area identified under subsection (a)(4).

(3) A statement, signed under penalty of perjury by an officer or another person authorized to bind the provider, that affirms the following:

(A) That the provider has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering communications service in Indiana.

(B) That the provider agrees to comply with any customer notification requirements imposed by the commission under section 11(b) of this chapter.

(C) That the provider agrees to update the information provided in the application submitted under subsection (a) on a regular basis, as may be required by the commission under section 12 of this

chapter.

(D) That the provider agrees to notify the commission when the provider commences offering communications service in each service area identified in the provider's application under subsection (a) (4).

(E) That the provider agrees to pay any lawful rate or charge for switched and special access services, as required under any:

(i) applicable interconnection agreement; or

(ii) lawful tariff or order approved or issued by a regulatory body having jurisdiction.

(F) That the provider agrees to report, at the times required by the commission, any information required by the commission under IC 8-1-2.6-13(d)(9).

(c) If:

(1) a communications service provider has been issued a:

(A) certificate of territorial authority; or

(B) certificate of public convenience and necessity;

by the commission before July 1, 2009; and

(2) the certificate described in subdivision (1) is in effect on July 1, 2009;

the communications service provider is not required to submit an application under this section for as long as the certificate described in subdivision (1) remains in effect. For purposes of this subsection, if a corporation organized under IC 8-1-13 (or a corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under

IC 8-1-13) holds a certificate of public convenience and necessity issued by the commission before, on, or after July 1, 2009, that certificate may serve as the certificate required under this chapter with respect to any communications service offered by the corporation, subject to the commission's right to require the corporation to provide any information that an applicant is otherwise required to submit under subsection (a) or that a holder is required to report under IC 8-1-2.6-13(d)(9).

(d) This section does not empower the commission to require an applicant for a certificate under this chapter to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this subsection.

As added by P.L.27-2006, SEC.55. Amended by P.L.1-2007, SEC.75.

IC 8-1-32.5-7

Duplicate copies of application and documents

Sec. 7. A communications service provider shall submit duplicate copies of the application and documents required by section 6 of this chapter to the commission. The commission shall prescribe the number of copies to be submitted by a communications service provider under this section.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-8

Commission's review of application and documents; issuance of certificate; request for additional information

Sec. 8. Not later than thirty (30) days after receiving the application and documents required by section 6 of this chapter, the commission shall review the application and documents for accuracy and completeness. If the commission determines that the application and documents are accurate, complete, and properly verified, the commission shall issue a certificate of territorial authority recognizing the communications service provider's authority to provide each communications service identified in the application. If the commission determines that the application and documents are inaccurate or incomplete, or are not properly verified, the commission shall return the application and documents to the provider with a brief statement of any additional information required. Not later than thirty (30) days after receipt of the request for additional information, the provider may:

- (1) provide the information requested;
- (2) appeal the decision of the commission under IC 8-1-3; or
- (3) decide to file another application at a later date, without prejudice.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-9

Request for hearing; limited issues; representation by counsel not

required

Sec. 9. (a) A hearing is not required in connection with the issuance of a certificate under this chapter. However, the commission shall conduct a hearing, subject to the requirements for hearings under IC 8-1-2 for public utilities, upon the request of any of the following:

- (1) The communications service provider submitting the application.
- (2) Any facilities based local exchange carrier offering service in a service area identified in the provider's application under section 6(a)(4) of this chapter.
- (3) The office of utility consumer counselor created by IC 8-1-1.1-2.
- (4) The commission, on its own motion.

(b) A hearing conducted under this section shall be limited to consideration of one (1) or more of the following issues:

(1) Whether the application and documents submitted under section 6 of this chapter are accurate, complete, and properly verified.

(2) The communications service provider's financial, managerial, and technical ability to provide the communications service for which it seeks a certificate under this chapter.

(c) The commission may not require a:

- (1) communications service provider; or
- (2) facilities based local exchange carrier offering service in a service area identified in the provider's application under section 6(a)(4) of this chapter;

to be represented by counsel at a hearing under this section.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-10

Sale, assignment, lease, or transfer of certificate; encumbrance of certificate

Sec. 10. Subject to any notice requirements adopted by the commission under section 12 of this chapter, a certificate issued under this chapter may be:

(1) sold, assigned, leased, or transferred by the holder to any communications service provider to which a certificate of territorial authority may be lawfully issued under this chapter; or

(2) included in the property and rights encumbered under any indenture of mortgage or deed of trust of the holder.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-11

Tariff not required; customer notification requirements

Sec. 11. (a) The commission may not require a communications service provider to file a tariff in connection with, or as a condition of receiving, a certificate of territorial authority under this chapter.

(b) This subsection does not apply to a provider of commercial

mobile service (as defined in 47 U.S.C. 332). The commission may require, in connection with the issuance of a certificate under this chapter, the communications service provider to provide advance notice to the provider's Indiana customers if the provider will do any of the following:

(1) Increase the rates and charges for any communications service that the provider offers in any of the provider's service areas in Indiana.

(2) Offer new communications service in any of the provider's service areas in Indiana.

(3) Cease to offer any communications service that the provider offers in any of the provider's service areas in Indiana.

The commission shall prescribe any customer notification requirements under this subsection in a rule of general application adopted under IC 4-22-2.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-12

Notice of change

Sec. 12. In connection with, or as a condition of receiving, a certificate of territorial authority under this chapter, the commission may require a communications service provider to notify the commission, after the issuance of a certificate, of any of the following changes involving the provider or the certificate issued:

(1) Any transaction involving a change in the ownership, operation, control, or corporate organization of the provider, including a merger, acquisition, or reorganization.

(2) A change in the provider's legal name or the adoption of, or change to, an assumed business name. The provider shall submit to the commission a certified copy of the:

(A) amended certificate of authority; or

(B) certificate of assumed business name;

issued by the secretary of state to reflect the change.

(3) A change in the provider's principal business address or in the name of the person authorized to receive notice on behalf of the provider.

(4) Any sale, assignment, lease, or transfer of the certificate to another communications service provider, as allowed by section 10 of this chapter. The provider shall identify the other communications service provider to which the sale, assignment, lease, or transfer is made.

(5) The relinquishment of any certificate issued under this chapter. The provider shall identify:

(A) any other certificate of territorial authority issued under this chapter that will be retained by the provider;

(B) the number of Indiana customers in the service area covered by the certificate being relinquished; and

(C) the method by which the provider's customers were or will be notified of the relinquishment, if required in a rule adopted by the commission under section 11(b) of this

chapter.

(6) This subdivision does not apply to a provider of commercial mobile service (as defined in 47 U.S.C. 332). A change in the communications service provided in one (1) or more of the service areas identified in the provider's application under section 6(a)(4) of this chapter. However, if new services will be provided in one (1) or more of the service areas, the commission may require the provider to submit a new application under section 6 of this chapter with respect to those services.

(7) A change in one (1) or more of the service areas identified in the provider's application under section 6(a)(4) of this chapter that would increase or decrease the territory within the service area.

The commission shall prescribe the time in which a provider must report changes under this section. The commission may prescribe a form for the reporting of changes under this section.

As added by P.L.27-2006, SEC.55. Amended by P.L.1-2007, SEC.76.

IC 8-1-32.5-13

Record of certificates issued; public access

Sec. 13. The commission shall maintain a record of all certificates of territorial authority issued under this chapter. The record must include all application forms, notices of change under section 12 of this chapter, and other documents filed with the commission under this chapter. The record must be made available:

(1) for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3; and

(2) electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1;

to the extent the information in the record is not exempt from public disclosure under IC 5-14-3-4(a).

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-14

Exemption from local franchises and fees

Sec. 14. A communications service provider that holds a certificate issued under this chapter is exempt from local franchises and related fees to the same extent as a communications service provider that holds a certificate of territorial authority or an indeterminate permit issued under IC 8-1-2 before July 1, 2009.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-15

Commission's authority to adopt rules

Sec. 15. The commission may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.27-2006, SEC.55.

Interexchange Carriers and Competitive Local Exchange Carriers

Interexchange Carriers (“IXCs”) and Competitive Local Exchange Carriers (“CLECs”), intending to provide service in Kentucky and that have not previously filed a notice of intention to provide utility service in this state need only submit a letter to the Commission which contains:

- (1) The name and address of the company;
- (2) Articles of incorporation or partnership agreement;
- (3) Name, street address, telephone number and fax number (if any) of the responsible contact person for customer complaints and regulatory issues;
- (4) A notarized statement by an officer of the utility that the utility has not provided or collected for intrastate service in Kentucky prior to filing the notice of intent or, alternatively, a notarized statement by an officer that the utility has provided intrastate service and that it will refund or credit customer accounts for all monies collected for intrastate service; and
- (5) A statement that the utility does not seek to provide operator assisted services to traffic aggregators as defined in Administrative Case No. 330¹ or, alternatively, that the utility does seek to provide operator-assisted service to traffic aggregators but that in so doing it is complying with the Commission's mandates in Administrative Case No. 330.

Updates to this information must also be submitted.

Tariffs may be provided to the Commission for CLECs and IXCs. Access services and Basic Services as defined by KRS 278.541 are required to be tariffed. The following schedule will determine the effective dates of tariffs.

Initial Tariff containing access services only.....	30 days after filing
Revisions to tariff containing access services.....	15 days after filing
Initial tariff containing basic and nonbasic services.....	Upon the effective date stated in the tariff
Revisions to tariff containing basic and non-basic services.....	Upon the effective date stated in the tariff.

¹ Administrative Case No. 330, Policy and Procedures in the Provision of Operator-Assisted Telecommunications Services, Order Dated March 27, 1991.

KRS 278.544 provides a that telecommunication utilities may file with the commission schedules or tariffs reflecting the rates, terms, and conditions for nonbasic services that are generally available to all subscribers qualifying for the rates, terms, and conditions. The rates, terms, and conditions for basic and nonbasic services shall be valid upon the effective date stated in the schedule.² Telephone utilities may provide nonbasic services pursuant to terms and conditions provided to the customer. Telephone utilities shall not be required to file nonbasic contracts with the commission.³ Telephone utilities that provide services pursuant to this subsection shall provide customers with notice, as part of the terms and conditions of such services, that basic local exchange service and any optional telephone feature on file in a schedule or tariff with the commission may be purchased separately at the price posted on the company's Web site or on file with the commission.⁴

If a company does not provide basic service as defined by KRS 278.541 or Access service and chooses not to file a tariff with the Commission or chooses to withdraw part or all of a tariff on file with the Commission then that utility must notify the Commission of the manner in which it will inform customers and the website at which the prices are posted. **Updates to this information must also be submitted.**

If a tariff for non-basic services is not filed with the Commission, the utility is responsible for maintaining evidence of each customer's applicable service arrangements for the purpose of resolving customer complaints.

² KRS 278.544 (1)

³ KRS 278.544 (3)

⁴ KRS 278.544 (3)

Sample Letter of IXC, or CLEC for Initial Operations

Kentucky Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40602

Re: Application for authority to operate as an Interexchange Carrier and/or
Competitive Local Exchange Carrier by [Name of Utility]

[Name of Utility] hereby submits the following information in accordance with the
provisions of Administrative Case Nos. 359 and 370.

1. The name, street address, telephone number and fax number of the
Utility.

[Name of Utility]
[Street Address]
[City, State, and Zip Code]
Ph: [Phone Number]
Fax: [Fax Number]

2. A copy of the company's Articles of Incorporation or Partnership
Agreement, if applicable [Attach as Exhibit]

3. Name, street address, telephone number and fax number (if any) of the
responsible contact person for customer complaints and regulatory issues
Customer Service Contact

[Name]
[Street Address]
[City, State, and Zip Code]
Ph: [Phone Number]
Fax: [Fax Number]

Regulatory Contact
[Name]
[Street Address]
[City, State, and Zip Code]
Ph: [Phone Number]
Fax: [Fax Number]

4. A notarized statement by an officer of the utility that the utility has not provided or collected for intrastate service in Kentucky prior to filing the notice of intent or, alternatively, a notarized statement by an officer that the utility has provided intrastate services, that it will refund or credit customer accounts for all monies collected for intrastate service. [Attach as Exhibit]

5. A statement that the utility does not seek to provide operator assisted services to traffic aggregators as defined in Administrative Case No. 330 or, alternatively, that the utility does seek to provide operator assisted service to traffic aggregators but that in so doing it is complying with the Commission's mandates in Administrative Case No. 330. [Attach as Exhibit]

6. The Company's proposed tariffs are attached as exhibits. Or in the alternative, if the Company is not providing tariffs, indicate the website address of the company's price schedule and the manner in which it intends to inform customers of applicable service arrangements.

7. A sample Company bill [Attach as Exhibit]

8. If the company is requesting CLEC authority please indicate if a interconnection agreement has previously been filed with the Commission or if one will be filed in the future.

Signed by

Company Representative

Date

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EXEMPTIONS FOR PROVIDERS OF LOCAL) ADMINISTRATIVE
EXCHANGE SERVICE OTHER THAN) CASE NO. 370
INCUMBENT LOCAL EXCHANGE CARRIERS)

O R D E R

Pursuant to KRS 278.512 and 278.514, the Commission, on its own motion, hereby initiates this proceeding to determine whether providers of telecommunications service other than dominant incumbent local exchange carriers should be exempt from certain regulatory requirements.

When evaluating the reasonableness of regulatory exemption, the Commission is bound by KRS 278.512 and 275.514. The Commission may exempt or reduce regulation of telecommunications services and products if it determines that exemption or reduced regulation is in the public interest. One consideration in determining public interest is the reduction of resources dedicated to regulatory activities no longer required to protect the public.

Financing Applications

Pursuant to KRS 278.300, the Commission has required competitive local exchange carriers (ACLECs®) and wireless carriers to submit an application, consistent with our regulations, providing a complete description of securities proposed to be issued or indebtedness proposed to be incurred. This requirement was meant to ensure that the contemplated financings would not impair a local exchange carrier's ability to provide service at fair, just and reasonable rates.

CLECs and wireless carriers are not rate regulated by the Commission because they neither possess market power nor own local exchange bottleneck facilities. Therefore, there is no need to monitor their financial stability to ensure their continued existence. CLECs do not have carrier of last resort responsibilities and their failure as the result of bad financing decisions would have no impact on the availability of service as other carriers are available to supply service. Similarly, the wireless market is competitive, and thus oversight of their financing activities is no longer required.

Applications For Transfer of Ownership or Control

Under KRS 278.020(4) and (5), CLECs and wireless carriers are required to seek prior approval for authority to transfer their operations through a sale of assets or transfer of stock. However, there appears to be no need for the Commission to approve these types of transactions for the reasons discussed above. Accordingly, the Commission finds the CLECs and wireless carriers need only supply a letter to the Commission describing the transfer and providing an adoption notice pursuant to 807 KAR 5:011, Section 11, for the tariff with one day's notice.

An original and four copies of this transfer letter should be filed with the Commission and sent to the attention of the Commission's Executive Director. In Administrative Case No. 359,¹ the Commission prohibited a utility from selling its customer base where the utility would still provide the same line of business to new customers or customers whose accounts were not sold. Utilities must obtain a customer's authorization

¹ Administrative Case No. 359, Exemptions For Interexchange Carriers, Long-Distance Resellers, Operator Service Providers and Customer-Owned, Coin Operated Telephones at 6, footnote 1 (June 21, 1996).

before transferring his service to another carrier. Otherwise, an unauthorized preferred interexchange carrier change has occurred. Any transfer by a CLEC or wireless carrier also will be subject to this limitation.

Applications for Initial Operations for CLECs and Wireless Carriers

The lack of market power of CLECs and wireless carriers, together with the availability of competitive choices, makes it reasonable to require only a proposed tariff with 30 days' notice to the Commission and a cover letter setting forth certain information prior to CLEC or wireless entry into the Kentucky market.

The items to be addressed in the cover letter are: (1) the name and address of the company; (2) articles of incorporation or partnership agreement; (3) name, street address, telephone number and fax number (if any) or the responsible contact person for customer complaints and regulatory issues; (4) a notarized statement by an officer of the utility that the utility has not provided or collected for intrastate service in Kentucky prior to filing the notice of intent or, alternatively, a notarized statement by an officer that the utility has provided intrastate service and that it will refund or credit customer accounts for all monies collected for intrastate service; and (5) a statement that the utility does not seek to provide operator assisted services to traffic aggregators as defined in Administrative Case No. 330² or, alternatively, that the utility does seek to provide operator-assisted service to traffic aggregators but that in so doing it is complying with the Commission's mandates in Administrative Case No. 330.

² Administrative Case No. 330, Policy and Procedures in the Provision of Operator-

Conclusion

The existence of competitive alternatives with carrier of last resort obligations, together with Commission oversight of these carriers, should provide adequate safeguards to protect customers from unfair treatment, poor service quality, or excessive prices. However, regardless of the extent of the exemptions eventually granted in this proceeding, all customers may continue to exercise their option of filing complaints regarding the exempt services with the utility and the Commission. In addition, the Commission retains jurisdiction over exempted services pursuant to KRS 278.512 and KRS 278.514.

A copy of this Order shall be served on the Attorney General of the Commonwealth of Kentucky and all telecommunications providers in Kentucky. The procedures and exemptions prescribed in this Order shall be effective January 31, 1998 unless the Commission receives from interested persons comments indicating disagreement with any exemption described herein.

IT IS THEREFORE ORDERED, effective January 31, 1998 unless further proceedings are ordered hereafter, that:

1. CLECs and wireless carriers are exempted from filing applications for prior approval of transfers pursuant to KRS 278.020(4) or (5) or applications for securing evidences of indebtedness pursuant to KRS 278.300.

Assisted Telecommunications Services (March 27, 1991).

2. CLECs and wireless carriers are exempted from filing applications for initial operations and shall only file 4 copies of a cover letter as described herein with a proposed tariff.

3. The exemptions granted herein are applicable to all non-incumbent local exchange carriers, and wireless telecommunications providers.

Done at Frankfort, Kentucky, this 8th day of January, 1998.

By the Commission

ATTEST:

Executive Director



I. GENERAL INFORMATION

Under Maine law (35-A M.R.S.A. § 2102), you must obtain approval from the Maine Public Utilities Commission before you provide **local** or **interexchange** service in Maine, whether through your own facilities or through resale. The purpose of this package is to describe the application process to apply for authority to provide telecommunications services in Maine. This package includes several attachments:

Attachment 1 is a **checklist** of the documents you will need to file before the Commission can consider your application. Please return the checklist itself (Attachment 1) along with your application and the other documents required by the checklist. **Attachment 2** contains several **questions** about your activities in other states and the services you propose to provide in Maine.

Pursuant to 35-A M.R.S.A. §2102(1)(A), as of July 17, 2008, the Commission may not grant approval to a telephone utility unless the telephone utility submits evidence that it has at least \$250,000 in fixed assets in Maine or the telephone utility purchases and maintains a surety bond in the amount of \$250,000. The documentation satisfying this requirement must be submitted with the application.

Pursuant to Chapter 214 , competitive telephone utilities are detariffed as of March 14, 2008. As of that date all CLECs and IXC's must post on a web page, retain paper copies in its offices and provide upon request, rates terms and conditions for all services. The information shall be sufficiently clear and complete that the Commission and customers can understand the price and terms and conditions of service.

With respect to competitive services, the Commission takes the position that competitive alternatives exist and that this competition will assure that providers will charge reasonable rates. Therefore the Commission does not review rates for local or interexchange service offered by competitive carriers. In the event of a conflict between any provision of the terms and conditions and Maine Law or Commission Rules the law or rule will govern. We recommend that you review the Commission Rules and Emergency Communication Services Bureau Rules before you begin offering services. In particular we draw your attention to:

Chapter 214, Detariffing

Chapter 280, Provision of Competitive Telecommunications Services

Chapter 285, Maine Telecommunications Education Access Fund

Chapter 288, Maine Universal Service Fund

Chapter 291, Standards for Billing, Credit and Collection, and Customer

Information for Non-Eligible Telecommunications Carriers

Chapter 292, Standards for Billing, Credit and Collection, and Customer Information for Interexchange Carriers

Chapter 296, Selection of Primary Interexchange And Local Exchange Carriers

Chapter 297, Anti-Cramming Rule

Chapter 870, Late Payment Charges, Interest Rates on Customer Deposits, and Charges for Returned Checks

35-A M.R.S.A. §7302, 70% rate reduction for intrastate toll calls for residential deaf customers who rely on teletypewriters for telecommunications service.

Applicants may either file an **original and two copies**, or an original and a CD containing an electronic copy of your application to: Administrative Director, Maine Public Utilities Commission, 18 State House Station, 242 State Street, Augusta, ME 04333-0018, OR use the PUC e-filing Financial materials may be filed under seal. If you have any questions or need further information, please contact us at the address shown above or call (207) 287-3831.

II. SPECIFIC INFORMATION APPLICABLE TO INTEREXCHANGE SERVICE

The Commission recognizes an important distinction between **interexchange facilities-based carriers** and **switchless interexchange resellers** with regard to the interexchange access charge structure in Maine. Facilities-based carriers must pay access charges to local exchange carriers. Switchless interexchange resellers do not pay access charges because the facilities-based carrier that actually carries its traffic (the "underlying carrier") will be paying those charges.

We define a switchless interexchange reseller as an entity that does not own, lease, or control any switching facilities or private lines that will be used to provide interexchange services in Maine. A reseller who owns a switch in another state, and plans to use that switch to carry traffic between Maine points, is a facilities-based carrier. A reseller that does not own facilities in Maine or any other state, or that owns a switch in another state but does not use that switch to carry traffic between Maine points, is a switchless reseller. In addition, A reseller (whether self-described as "switchless" or not) that purchases interstate service from another carrier and then resells that service as intrastate Maine service (because the calls originate and terminate in Maine) must pay Maine intrastate access charges and must notify the Commission and all local exchange carriers on which it terminates calls that it is engaging in this practice.

Many applicants request authority to provide both facilities-based and resold interexchange service. For their own facilities-based service, they must pay access charges. For service that they resell, and that is carried by some other facilities-based carrier, the Commission must be satisfied that the facilities-based that carries the traffic is authorized to provide such service in Maine and pays access charges.

It is unlawful for any carrier, whether it is facilities-based or a switchless reseller, to

provide intrastate service in Maine, either at wholesale or retail, unless it has obtained authority from the Maine PUC. We therefore must know that the carrier(s) from which the applicant will purchase its services have that authority. Some switchless interexchange resellers purchase service from other switchless interexchange resellers. Ultimately, however, there must be a facilities-based carrier that actually carries the applicant's traffic. For all switchless reseller applicants, we need to know the identity of, and the authority to provide service, of the carrier that will be selling service directly to the applicant; and if that carrier is a switchless interexchange reseller, the identity and authority of the ultimate underlying facilities-based carrier that will actually carry the applicant's traffic and be responsible for the payment of access charges.

Attachments 3, 4 and 5 address these issues. **Attachment 3** applies to applicants who wish to obtain authority to provide switchless resold services (even if they also request authority to provide facilities-based service). In that attachment the applicant for resale authority must identify the carrier from which it will purchase service. If that carrier is not a facilities-based carrier, but is another switchless reseller, the applicant must also identify the ultimate facilities-based carrier that carries its traffic. The applicant must also establish that the carrier(s) named in the attachment have authority from the Maine PUC to provide intrastate interexchange service in Maine by providing the docket number and date of that authority. That information is normally available at a list of interexchange carriers located at the Commission's web site. Go to http://www.maine.gov/mpuc/regulated_utilities/telecom.html and then to "Competitive Telecommunications Companies." **Please note:** if the facilities-based carrier is **AT&T, MCI/Verizon, Sprint or Qwest**, you need to provide only the name of that company. You do **not** need to provide the docket number or date of its authority.

Attachment 4 also applies to applicants for switchless resale authority. In that form the ultimate underlying facilities-based carrier that will be carrying the applicant's traffic (unless it is **AT&T, MCI/Verizon, Sprint or Qwest**) must certify that it actually provides facilities-based interexchange service in Maine and that will pay access charges on behalf of the applicant's traffic. If the underlying facilities-based carrier is **AT&T, MCI/Verizon, Sprint or Qwest**, the applicant does not need to provide **Attachment 4**.

Attachment 5 applies only to applicants who wish to obtain authority to provide facilities-based service (whether or not they also seek switchless resale authority). In that form the applicant must certify that it will pay access charges.

Inquiries related any matter concerning interexchange service should be directed to Joel Shifman of the Commission staff.

III. SPECIFIC INFORMATION APPLICABLE TO LOCAL SERVICE

Provision of local exchange service is governed by the federal Telecommunications Act of 1996 (TelAct) as well as by Maine law and Public Utilities Commission rules. Sections 251-252 of the TelAct establish a process whereby entities wishing to provide competitive local exchange carrier (CLEC) services may request negotiation of interconnection and access from incumbent local exchange carriers (ILECs). CLECs may also obtain ILEC services from ILEC Statements of Generally Available Terms, but at this time no such statement has been approved by the Commission.

As a practical matter, each new CLEC will need, in most cases, an interconnection agreement with one or more ILECs. Otherwise, CLEC customers will not be able to call ILEC customers, and vice-versa. The Interconnection Agreement must also be filed with the Commission for approval.

The Commission also recognizes an important distinction between **facilities-based** and **reseller** local exchange carriers (LECs). The Commission approves service territory areas for facilities-based LECs only for those where the LEC actually intends and is able to provide local service within a six-month period. A facilities-based LEC may establish that is able to provide service by showing that it has (or will have within six months) switching and loop facilities (including those obtained as unbundled network elements (UNEs) from an ILEC) that are capable of providing local service to the proposed service area. A commitment to obtain collocation from an ILEC serving the area will also be considered in determining whether a CLEC is ready to provide facilities-based service. Neither the North American Numbering Plan Administrator (NANPA) nor the National Pooling Administrator will assign phone numbers unless a LEC is authorized to provide local service in the location requested.

The service territory limitations described above applies only to local exchange carriers that are granted the authority to provide facilities-based service. It does not apply to local exchange resale authority. The Commission defines local exchange resale as the sale of local services purchased at a wholesale discount from an ILEC pursuant to 47 U.S.C. § 251(c)(4).

After the initial order granting authority to provide resold service or facilities-based service to a limited area, a utility may seek to expand its authority to provide facilities-based service or facilities-based service to additional areas. Upon the kind of showing described above that establishes a readiness to serve, the Commission will act expeditiously to amend the order granting authority.

The Commission strongly recommends that all local exchange carriers define their service territories by reference to the exchange boundaries of incumbent local exchange carriers. In the absence of such conformity, there could be substantial confusion for both ILEC and CLEC customers concerning whether calls to certain locations are local (within a Basic Service Calling Area, as defined pursuant to Commission rule) or toll.

Attachment 6 applies only to applicants that have reviewed the CLEC to CLEC migration guidelines and have determined that they can not or will not follow the guidelines. In this form applicants must advise the Commission of its position and the reasons for it. Applicants that do not file an **Attachment 6** will be assumed to have read the CLEC to CLEC migration guidelines.

Inquiries related to local exchange service should be directed to [Rich Kania](#) of the Commission staff.

Last updated: August 6, 2008

Checklist for Application to Provide Competitive Telecommunications Service in Maine

_____, Docket No. _____
Company Name (including d/b/a if any)

Application for (check all that apply):

- interexchange service – facilities-based
- interexchange service – reseller
- local exchange service – facilities-based
- local exchange service – reseller
- local exchange service – provided through purchase of Wholesale Advantage or equivalent (formerly UNE-P)
- dedicated (unswitched) service, capable of carrying local and interexchange traffic
- other: _____

Use this checklist to indicate that you have provided the following documents:

- ____ 1. Petition containing the information required by Chapter 280, § 4(A) and §4(C)
- ____ 2. Certified Responses to questions in Attachment 2
- ____ 3. Switchless reseller interexchange service applicants:
Identification of carrier selling services to, carrier and carrier paying access charges for interexchange reseller applicant (Attachment 3)
- ____ 4. Switchless reseller interexchange service applicants: Certification by carrier responsible for payment of access charges (Attachment 4)
- ____ 5. Facilities-based interexchange service applicants:
Certification of willingness to pay access charges (Attachment 5)
- ____ 6. Documentation sufficient to establish that the telephone utility has met the fixed asset or bonding requirement contained 35-A M.R.S.A. § 2102(1)(A).

Attachment 2

Company Name

Please provide answers to all of the following questions:

1. Please attach a sheet designating contact persons to work with us on the following issues:
 - a. issues related to processing this application
 - b. consumer issues including pricing
 - c. technical and service quality issues

Please identify each contact person's (i) name, (ii) title, (iii) mailing address, (iv) telephone number, (v) facsimile number, and (vi) e-mail address if any.

2. Please list the states where the carrier is registered or authorized to serve and has provided telecommunications service.
3. Has the carrier ever been or is the carrier currently the subject of an investigation (not including the initial application to provide service) by a state or federal regulatory authority?

Yes _____ or _____ No. If you have answered yes to this question, please provide a copy of the final order or settlement if the proceeding has concluded, or a copy of the notice of investigation if the proceeding is pending.

4. Has the carrier ever filed for any type of bankruptcy?

Yes _____ or _____ No. (If Yes, please describe and provide the current status of that proceeding)

5. Does the carrier propose operator service charges?
_____ Yes or _____ No.

Attachment 2

Company name

6. Does the carrier propose per-minute rates for operator services that are different than the per-minute rates for direct-dialed calls?

_____ Yes or _____ No

7. Does the carrier propose to charge an "aggregator" or "property" surcharge?

_____ Yes _____ No

8. If resale is proposed: In Attachment 3 the carrier has identified the carrier(s) that it intends to purchase services from and that will actually carry its traffic.

_____ Yes _____ No.

9. If, for any reason, the carrier has provided telecommunications services in Maine prior to obtaining authority from the Maine Public Utilities Commission, the carrier agrees to pay access charges to the Access Charge Administrator in Maine as required under Chapter 280, Section 8 as a condition of the Commission approving the carrier's application.

I certify that the answers I have provided to the above questions are correct to the best of my knowledge and belief.

Name of Company representative

Title

Date

IDENTIFICATION OF CARRIER SELLING SERVICES TO AND CARRIER PAYING ACCESS CHARGES FOR TRAFFIC OF INTEREXCHANGE RESELLER APPLICANT

1. _____ (applicant) purchase interexchange services from _____ (selling carrier). _____ (selling carrier) obtained authority from the Maine Public Utilities Commission to provide interexchange service in Maine on _____ (date) in Docket No. _____. _____ (selling carrier) is a [facilities-based carrier] [reseller] [**<< choose one**].

Please note: If the carrier you identify in this paragraph 1 is **AT&T, MCI/Verizon,¹ Sprint or Qwest** you do not need to provide the docket number and date of authority.

Paragraph 2 instructions: Fill in paragraph 2 only if the “selling carrier” identified in paragraph 1 is the interexchange carrier that will actually pay the access charges associated with the applicant’s traffic.

2. _____ (selling carrier) has the authority in Maine to provide and does in fact provide interexchange service in Maine, pays intrastate switched access charges, as provided in Chapter 280 of the Maine Public Utilities Commission’s Rules, and will be paying switched access charges associated with the applicant’s traffic.

Paragraph 3 instructions: Fill in paragraph 3 only if the “selling carrier” identified in Paragraph 1 is **not** the interexchange carrier that will pay access charges associated with the applicant’s traffic. Paragraph 3 must identify the carrier that will pay the access charges associated with the applicant’s intrastate traffic in Maine. The carrier identified in Paragraph 3 must be authorized to provide interexchange service in Maine and can itself be either facilities-based or a reseller.

3. _____ (carrier that will pay access charges) has the authority in Maine to provide interexchange service in Maine as a [facilities-based carrier] [reseller] [**<< choose one**]. It obtained that authority from the Maine Public Utilities Commission on _____ (date) in Docket No. _____ and presently provides intrastate interexchange service in Maine. It pays intrastate switched access charges, as required by Chapter 280 of the Maine Public Utilities Commission’s Rules, and will pay access charges for traffic associated with _____ (applicant) .

Please note: If the carrier you identify in this paragraph 3 is **AT&T, MCI/Verizon,² Sprint or Qwest** you do not need to provide the docket number and date of authority.

¹ MCIMetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services.

Date: _____

Signature and title

² MCIMetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services.

TO BE COMPLETED BY THE INTEREXCHANGE CARRIER THAT WILL BE RESPONSIBLE FOR THE PAYMENT OF ACCESS CHARGES FOR APPLICANT REQUESTING AUTHORITY TO PROVIDE RESOLD INTEREXCHANGE SERVICE

(AT&T, Sprint, MCI/Verizon¹ and Qwest do not fill out this form)

1. _____ (carrier that will pay access charges) certifies that it is an interexchange carrier that is authorized by the Maine Public Utilities Commission to provide [facilities-based] [resold] [**<< choose one**] service in Maine; it received that authority on _____ (date) in Docket No. _____.
- 2A. Facilities-based carriers only fill in this paragraph:
_____(carrier that will pay access charges) certifies that it actually provides facilities-based intrastate interexchange service in Maine and that it will be carrying the intrastate interexchange traffic resold by _____ (applicant reseller).
_____(carrier that will pay access charges) further certifies that it pays intrastate switched access charges as required by Chapter 280 of the Maine Public Utilities Commission's Rules and that it will pay access charges on all of the intrastate interexchange traffic of _____ (applicant reseller) that it carries.
- 2B. Reseller carriers that will be paying access charges on Applicant's traffic fill in this paragraph:
_____(carrier that will pay access charges) certifies that it provides resold intrastate interexchange service in Maine and that it purchases that service from _____(which obtained authority to provide intrastate interexchange service in Docket No. _____, issued on _____ (date)). _____(carrier that will pay access charges) further certifies that it pays intrastate switched access charges as required by Chapter 280 of the Maine Public Utilities Commission's Rules and that it will pay access charges on all of the intrastate interexchange traffic of _____ (applicant reseller)

Signature and Title

Date

¹ MCIMetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services

**TO BE COMPLETED BY AN APPLICANT FOR AUTHORITY TO
PROVIDE FACILITIES-BASED INTEREXCHANGE SERVICE**

_____ (applicant) certifies that it will pay intrastate switched access charges, as required by Chapter 280 of the Maine Public Utilities Commission's Rules, for all of the intrastate interexchange traffic that it carries using its own switching and/or transport facilities.

Signature and Title

Date

**TO BE COMPLETED BY AN APPLICANT FOR AUTHORITY TO
PROVIDE LOCAL EXCHANGE SERVICE THAT DOES NOT INTEND TO
FOLLOW THE CLEC TO CLEC MIGRATION GUIDELINES**

_____ (Applicant) informs the Commission that it will not follow
the CLEC to CLEC migration guidelines for the following reasons:

Signature and Title

Date

SUMMARY - This Chapter, adopted pursuant to 35-A M.R.S.A. §§ 104, 111, 301, 1301, 2102, 2105, 2110, 7101, 7101-B, 7104-A, and 7303, establishes economically efficient and equitable access charges for- the provision of competitive services; and describes the process for intrastate competitive telecommunications carriers to obtain authority from the Commission to provide service.

TABLE OF CONTENTS

§ 1 PURPOSE 5

§ 2 DEFINITIONS..... 5

A. Access Charges 5

B. Common Line; Common Line Costs 5

C. Competitive Local Exchange Carrier (CLEC)..... 5

D. Incumbent Local Exchange Carrier (ILEC)..... 5

E. Interexchange Access..... 6

F. Interexchange Carrier (IXC)..... 6

G. Interexchange Communications or-Traffic; Interexchange Service 6

H. Intrastate..... 6

I. Intrastate Communication or Telecommunication..... 6

J. Local Exchange Carrier (LEC) 6

K. Operator Services..... 7

L. Resale And Sharing.....7

M. Telecommunications Carrier..... 7

§ 3 APPLICABILITY 7

A. General Applicability 7

	B.	Exception: Inapplicability to Pay - Telephone Service Providers	7
	C.	Exception: Inapplicability to CMRS Providers for Intrastate Traffic Within a Single MYA.....	7
§ 4		APPROVAL REQUIRED	8
	A.	Public Convenience and Necessity; Required Findings	8
	B.	Approval for Additional Service or Service Area.....	8
	C.	Contents of Application	8
§ 5		AVAILABILITY OF SERVICES AND FACILITIES.....	10
	A.	Requests	10
	B.	Responses.....	10
	(1)	Request Satisfied	10
	(2)	Request Not Satisfied	10
	(3)	Disposition of Request Not Resolved	10
	C.	Notification Requirements	11
	(1)	Request Not Satisfied	11
	(2)	Disposition of Request Not Resolved	11
	(3)	Filing of Responses	12
	D.	Commission Review	12
§ 6		PROVISION OF FACILITIES BY LOCAL EXCHANGE CARRIERS TO OTHER TELECOMMUNICATIONS CARRIERS	12
	A.	General Obligation of LECs	12
	B.	Excessive Traffic	12
	(1)	Limitation or Delay	12
	(2)	Capital Additions; Payment.....	12

§ 7	UNAUTHORIZED INTEREXCHANGE SERVICE; BLOCKING OF UNAUTHORIZED TRAFFIC	13
§ 8	ACCESS RATES	13
	A. Rate Schedules	13
	B. Rates for All LECs Effective June 1, 2003 and Thereafter	13
	C. Direct End-User Class Charges Prohibited.....	14
§ 9	SCHEDULE FILINGS BY INTEREXCHANGE CARRIERS; CHANGES IN RATES	14
	A. Rate Schedules	14
	B. Telecommunication services for the deaf, hearing impaired, and speech Impaired ...	14
	C. Exemption from Filing Requirements.....	14
§ 10	NOTICE BY ALL INTEREXCHANGE CARRIERS PRIOR TO EFFECTIVE DATE OF RATE INCREASES	14
	A. General Requirement	14
	B. Cancellation Period Added to Notice Period	14
	C. Affected Customer: Definition	15
	D. Alternative Compliance	15
	E. Exemption	15
§ 11	REPORTS AND RECORDS	15
	A. Annual Reports	15
	B. Records	15
§ 12	WAIVER OF 35-A M.R.S.A. §§ 707 AND 708; NOTICE REQUIREMENT	15
	A. Waiver.....	15

B. Notice Requirement 16

C. Changes of Name, Business Office and Contact Person; Notice..... 16

§ 13. **APPLICABILITY OF OTHER STATUTES (*REPEALED*)**..... 16

§ 14 **COMMISSION REVIEW** 16

§ 15 **WAIVER OF PROVISIONS OF CHAPTER**..... 17

**STATE OF MAINE
PUBLIC UTILITIES COMMISSION**

CHAPTER 280

COMPETITIVE TELECOMMUNICATIONS SERVICES

§ 1 PURPOSE

The purposes of this Chapter are to establish economically efficient and equitable access charges for the provision of competitive-services and to describe the process for intrastate competitive telecommunications carriers to obtain authority from the Commission to provide service.

§ 2 DEFINITIONS

- A. **Access Charges.** "Access charges" and "access rates" are those charges and rates, required by section 8 of this Chapter, that an interexchange carrier (defined herein) must pay in order to provide intrastate interexchange service in Maine.
- B. **Common Line; Common Line Costs.** A "common line" is a facility that carries telecommunications between a local switch and a customer premises. The common line is also known as a "loop," and, for local exchange purposes, a "link." Common lines may carry intrastate local exchange, intrastate interexchange and interstate communications. Common line costs are subject to recovery as provided in section 8(C).
- C. **Competitive Local Exchange Carrier (CLEC).** A competitive local exchange carrier" (CLEC) is any local exchange carrier (LEC) (defined herein) that is not an incumbent local exchange carrier (ILEC) (defined herein).
- D. **Incumbent Local Exchange Carrier (ILEC).** "Incumbent local exchange carrier" (ILEC) means a local exchange carrier (defined herein) or its successor that provided local exchange service in a defined service territory in Maine on February 8, 1996. A local exchange carrier that is defined as an ILEC pursuant to this subsection shall not be considered to be an ILEC in any area to which it expands its service after February 8, 1996, and in which another ILEC or competitive local exchange carrier (CLEC) was providing service on the date of that expansion, unless it is found to be an ILEC by this Commission or by the Federal Communications Commission pursuant to 47 U.S.C. § 252(h)(2) provider as defined by federal law.

- E. **Interexchange Access.** "Interexchange access" and "interexchange access services" refer to the access services provided by local exchange carriers and used by interexchange carriers for the carriage of intrastate interexchange traffic. The pricing for interexchange access services is governed by section 8 of this Chapter.
- F. **Interexchange Carrier (IXC).** An "interexchange carrier" (IXC) is any person, association, corporation, or other entity that provides intrastate interexchange telecommunications services, including a local exchange carrier (LEC), whether or not that entity is a public utility. An interexchange carrier includes an entity that provides services using facilities that it owns, leases, controls, operates or manages, including leased private lines or special access facilities, and an entity that resells switched services provided by other carriers. An IXC does not include a commercial mobile radio service (CMRS) provider as defined by federal law.
- G. **Interexchange Communications or Traffic; Interexchange Service.** For the purposes of this Chapter, "interexchange communications" or "interexchange traffic" are any switched or private line telecommunications between telephone exchanges or wire centers, except that switched traffic between points having local calling with one another (extended area service or EAS) under local exchange carrier's schedule approved by the Commission is not considered "interexchange." The provision of facilities or services for the carriage of interexchange traffic is an "interexchange service."
- H. **Intrastate.** "Intrastate" as used in this chapter refers to the provision or carriage of an "intrastate communication" (as defined in this section), or to a carrier or service that provides intrastate communications.
- I. **Intrastate Communication or Telecommunication.** An intrastate communication" or "intrastate telecommunication" is a telecommunication that is functionally intrastate, with points of origination and termination within Maine, regardless of the actual routing of the communication. In the case of mobile telecommunications services, the points of origination and termination of the communication shall be assumed to be the antenna locations at which the carrier acquires and passes on the end user's signal, unless the actual location of the end user can be determined.
- J. **Local Exchange Carrier (LEC)** . A "local exchange carrier" (LEC) is a telephone utility, as defined by 35-A M.R.S.A. § 102(19), that provides telephone exchange service or interexchange access service within a telephone exchange pursuant to authority granted by or under Private and Special Law of the State of Maine; or Public Law 1895, ch. 103, § 103 or subsequent codification's thereof; or 35-A M.R.S.A. § 2102, or prior codification's thereof; LECs include incumbent local exchange carriers (ILECS) (defined herein) and competitive local exchange carriers (CLECS) (defined herein), and local resellers (defined herein). A local exchange carrier does not include a commercial mobile radio service (CMRS)

- K. **Operator Services.** "Operator services" are services performed by a live operator or by electronic means to obtain billing and other information for telephone calls not billed automatically to the telephone line from which the call is originated. Telephone calls that use operator services include, but are not limited to, credit or calling card calls, debit card calls collect calls, calls billed to a third number, and person-to-person calls. Information that is collected by an operator service includes, but is not limited to, a calling or credit card number, a debit card number, the name of the caller and a third-party billing number.
- L. **Resale And Sharing.** "Resale" is the acquisition by a telecommunications carrier of a service authorized by the Commission from an authorized telephone utility, or from an entity that by law does not require authority, and the subsequent sale of that service, in a technically unaltered form, with or without a different price structure, to end-users. If the carrier uses the acquired service together with its customers, the resale is termed "sharing."
- M. **Telecommunications Carrier.** A "telecommunications carrier" is any person, association, corporation, or other entity that provides intrastate telecommunications services, whether or not that entity is a public utility. Telecommunications carrier include all interexchange carriers (IXPS) (defined herein) and all local exchange carriers (LECS) (defined herein).

§ 3 APPLICABILITY

- A. **General Applicability.** This Chapter applies to the provision of all interexchange and local competitive telecommunications services, except as provided in subsection B.
- B. **Exception: Inapplicability to Pay Telephone Service Providers.** Nothing in this Chapter will apply to the certification or provision of local service by pay telephone service providers, which are governed by Chapter 250 of the Commission's rules, 65-407 C.M.R. 250.
- C. **Exception: Inapplicability to CMRS Providers for Intrastate Traffic Within a Single MTA.** This Chapter shall not apply to Commercial Mobile Radio Service (CMRS) providers, as defined by Federal law, to the extent their intrastate Maine traffic is contained entirely within a single Major Trading Area (MTA), as established by Federal Communications Commission regulation.

§ 4 APPROVAL REQUIRED

- A. **Public Convenience and Necessity; Required Findings.** No telecommunications carrier that is a telephone utility, as defined by 35-A M.R.S.A. § 102(19), shall provide competitive local exchange or interexchange telecommunications service in or to a municipality in which another telephone utility is furnishing or is authorized to provide telephone service unless the Commission has first approved the furnishing of that service pursuant to 35-A M.R.S.A. §§ 2102 and 2105 by making a declaration that the public convenience and necessity require an additional public utility. Approval to provide any service shall not be issued unless the applicant has presented sufficient evidence for the Commission to make the following findings:
- (1) The applicant has adequate financial ability and willingness to cover any customer advances and deposits; and to pay intrastate access charges and interconnection charges on all intrastate telecommunications services;
 - (2) The applicant (other than a interexchange carrier that is a reseller or A local exchange carrier that provides service solely through resale of local service purchased from a wholesale schedule of another LEC) has the technical ability to measure and record intrastate traffic information and billing amounts that may be necessary for the calculation of access and interconnection charges; and
 - (3) The applicant is willing and able to comply with State law and Public Utilities Commission rules, including, but not limited to, this Chapter.
- B. **Approval for Additional Service or Service Area.** A telephone utility that is authorized to provide either interexchange service or local exchange service and that desires to provide the other service or to extend either service to additional areas shall obtain further approval pursuant to 35-A M.R.S.A. § 2102, but does not need to provide the information required by this section unless the information supplied previously has changed since the time of the any earlier application. Any further application shall provide a reference by docket number to a prior application.
- C. **Contents of Application.** Any application for approval pursuant to 35-A M.R.S.A. § 2102 to operate as a telephone utility and to provide competitive telecommunications services shall contain the following information, as applicable, except to the extent a waiver is granted pursuant to section 14:
- (1) Name of the applicant and any names under which the applicant does business (d/b/a's).

- (2) Address of the principal office of the applicant.
- (3) State (s) under which the applicant is organized and form of organization (corporation, partnership, association, firm, individual, etc.), including the date of organization.
- (4) A statement that the applicant, if it is a corporation, is organized under the laws of the State of Maine; or, if it is a foreign corporation, evidence that it is authorized to do business in Maine pursuant to 13-A M.R.S.A. § 1201 et seq. and the name and address of the corporation's registered office and agent in Maine, as required by 13-A M.R.S.A. § 1212.
- (5) Names and addresses of the officers and directors of the applicant.
- (6) Names and addresses of any affiliated interests of the applicant, as defined by 35-A M.R.S.A. § 707(1), that are public utilities in Maine, as defined by 35-A M.R.S.A. § 102(13), or that own more than 10% of the applicant.
- (7) A statement of whether the applicant is applying for authority to offer local service, interexchange service, or both, and the geographic areas for which the applicant seeks to obtain authority to serve. The application may designate those geographic area(s) by political boundaries or by the service areas of incumbent local exchange carriers or other areas specifically designated by the applicant.
- (8) A proposed initial schedule setting forth rates and terms and conditions of the proposed services, or an explanation of why a proposed initial schedule is not included.
- (9) Name(s), address and telephone number(s) of the person(s) whom the Commission should contact in regard to the proposed rate schedule and terms and conditions required by paragraph 8 and for future filings following the granting of authority.
- (10) Name(s), address and telephone number(s) of the person(s) whom the Commission should contact in regard to complaints by consumers.
- (11) Name(s), address and telephone number(s) that customers of the applicant should contact for inquiries about service, rates and bills.

- (12) A statement that the applicant is willing and able to comply with this Commission's rules, including this Chapter.
- (13) A statement whether the applicant presently or within the past 5 years has, to its knowledge, been the subject of an investigation (not including the initial application to provide service) by a state or federal regulatory authority, and, if so, a copy of the final order or settlement if the proceeding has concluded, or a copy of the notice of investigation and any interim orders if the proceeding is pending.
- (14) A statement whether the applicant proposes to offer operator services (as defined in section 2(K) and, if so, a reference to the pages of the applicant's proposed rate schedule at which the proposed operator service rates are located.
- (15) A statement of the means of access (feature group, special access, etc.) that the applicant intends to use for the provision of intrastate service in Maine; the location of any points of presence (POPS) at which that access is or is intended to be obtained and the local exchange carrier(s) from which it will be obtained; and a description of the means the applicant will use to identify its traffic as intrastate or interstate for the purpose of any intrastate billing reporting requirement required by this Chapter or the access administrator.

§ 5 AVAILABILITY OF SERVICES AND FACILITIES

- A. **Requests.** Any person may make a *bona fide* request to a local exchange carrier (LEC) for a specific service, using the LEC's network not available in the requester's area or for access to its network, facilities. The request shall specify particular locations, times, and quantities desired by the requester. A request that is made to managerial, marketing or business office personnel shall constitute a bona fide request if it complies with the requirements of this subsection.
- B. **Responses.** the local exchange carrier shall respond to a bona fide request. Responses shall take one of the following forms:
 - (1) **Request Satisfied.** The request will be considered satisfied if within 2 months of the request the telecommunications local exchange carrier has provided the requested service or facilities, or has agreed to provide it within 3 months of the request pursuant to special contract or rate schedules approved by the Commission.

- (2) **Request Not Satisfied.** Within 2 months after receipt of a request for service or facilities if the local exchange carrier has not provided the requested service or facilities, and has determined that it will not provide it, or will not seek Commission approval of schedules or contracts governing such provision, it shall notify the Commission and the requester in accordance with the requirements in subsection C(1) below.
- (3) **Disposition of Request Not Resolved.** Within 2 months after receipt of a request for service or facilities or if the local exchange carrier has not determined whether the requested service or facilities will be provided, it shall notify the Commission and the requester in accordance with the requirements of subsection C(2) below.

C. **Notification Requirements.**

- (1) **Request Not Satisfied.** Notification required to be made in subsection B(2) above shall contain the following information:
 - (a) Identification of the person or other entity making the request;
 - (b) The date on which the request was made and/or received, and any date(s) on which the service or provision of facilities was requested to be effective;
 - (c) Any determination made by the local exchange carrier as to the bona fide nature of the request;
 - (d) The specific reason (s) that the requested service or facilities cannot or will not be provided, or reason (s) that the local exchange carrier's existing schedules, operating practice, contract(s), or corporate policy should not be changed to accommodate the request within the time requested or within 3 months after receipt of the request; and
 - (e) A report of any offer made by the local exchange carrier to the requester to furnish a similar or substitute service or facilities and the disposition of that offer.
- (2) **Disposition of Request Not Resolved.** The notification which is required to be made in subsection B(3) above shall contain the following information:
 - (a) The identification of the person or other entity making the request;

- (b) The date on which the request was made and/or received, and any date(s) on which the service or provision of facilities was requested to be effective;
 - (c) A description of any preliminary findings made with respect to provision of the requested service or facilities and
 - (d) The anticipated date on which a determination as to the provision of service or facilities will be made.
- (3) **Filing of Responses.** Notification required to be made under this subsection must be filed with the Commission within 2 months after receipt of the request. A copy of the notification must be provided to the requester.
- D. **Commission Review.** A request may obtain review of an local exchange carrier's refusal to provide a requested service or facility pursuant to section 15 of this Chapter.

§ 6 PROVISION OF FACILITIES BY LOCAL EXCHANGE CARRIERS TO OTHER TELECOMMUNICATIONS CARRIERS.

- A. **General Obligation of LECS.** Upon request by an interexchange carrier, a local exchange carrier LEC shall provide access services and facilities in those areas where it provides service and where that provision is technically feasible, by using its own facilities or by obtaining them from another telecommunications carrier. Access facilities should be provided in a timely manner and in a quantity sufficient to accommodate the traffic expected to be generated by the interexchange carrier.
- B. **Excessive Traffic.**
1. **Limitation or Delay.** If the provision of the access services or facilities will cause substantial concentration, redirection, or other change to traffic volumes carried on the public switched network that may result in a degradation of service to the LEC's other customers, the LEC shall apply to the Commission for a waiver of these provisions to allow it to terminate, limit, or delay temporarily the provision of service to the requesting interexchange carrier until sufficient facilities can be made available.
 2. **Capital Additions; Payment.** If an interexchange carrier wishes to offer competitive services from an exchange which has Extended Area Service (EAS) calling to another exchange, it must obtain Feature Group D (FGD) type access from the affected local exchange carrier(s) at each of the exchanges in which the IXC competitive telecommunications services are to be provided. If FGD is unavailable, the IXC shall pay the affected local exchange carrier all the capital and other costs it incurs that are reasonably necessary to ensure that the access provided to the competitive carrier will not

significantly degrade the service to the affected local exchange carrier's own end-users. A reasonable portion of those costs shall be collected in the form of an installation charge to the IXC at the time the capital additions are required.

§ 7 UNAUTHORIZED INTEREXCHANGE SERVICE; BLOCKING OF UNAUTHORIZED TRAFFIC

All interexchange carriers shall pay access charges as required by section 8 of this Chapter, and their continued authorization to provide service is contingent upon such payment. Where it is technically possible to distinguish and separate intrastate from interstate traffic, LECs shall deny intrastate access to interexchange carriers (IXCS) that are telephone utilities as defined in 35-A M.R.S.A. § 102(19) but are not authorized to provide intrastate telecommunications services. Where the LEC or LECs cannot deny access and the unauthorized IXC can block unauthorized traffic, the IXC shall block all such intrastate traffic. For unauthorized intrastate interexchange traffic that cannot be blocked, the unauthorized IXC shall pay a charge that is equal to the undiscounted Message Telecommunications Service (MTS) of the local exchange carrier.

§ 8 ACCESS RATES

- A. **Rate Schedules.** Each local exchange carrier authorized to provide local exchange service in the State of Maine shall file and maintain rate schedules establishing that carrier's access rates pursuant to 35-A M.R.S.A. § 307.
- B. **Rates for All LECs Effective June 1, 2003 and Thereafter.** No later than June 1, 2003 (or such later date as may be established by statute), all local exchange carriers shall establish intrastate access rates that are less than or equal to the interstate access rates for that carrier that are in effect on June 1, 2003 (or such other date as may be established by statute). On or before June 1 of every two years thereafter (all odd-numbered years), except to the extent that the need for subsequent changes is modified by statute, all local exchange carriers shall reestablish intrastate access rates that are less than or equal to the interstate rates for that carrier that are in effect on June 1 of that year. If a date later than June 1, 2003, is established by statute for the implementation of intrastate access rates that are less than or equal to specified interstate access rates, the Commission, by order issued in a rate proceeding or in a proceeding under Chapter 288, § 3, may require a LEC to change its access rates to a level specified by the Commission prior to the final date established by statute, provided such an order is not precluded by statute.

- C. **Direct End-User Access Charges Prohibited.** All access charges imposed by LECs shall be charged directly to interexchange carriers and no component of an access charge shall be charged by an local exchange carrier directly to an end-user.

§ 9 SCHEDULE FILINGS BY INTEREXCHANGE CARRIERS; CHANGES IN RATES

- A. **Rate Schedules.** Interexchange carriers subject to the authority of the Commission shall file schedules of rates, terms and conditions as provided in 35-A M.R.S.A. § 307. Those rates, terms and conditions shall be subject to provisions of all applicable statutes, including 35-A M.R.S.A. §§ 309 and 701-703.
- B. **Telecommunication services for the deaf, hearing impaired, and speech impaired.** Interexchange carriers are required to provide a 70% rate reduction for intrastate toll calls for deaf, hard-of-hearing or speech-impaired persons as required by 35-A M.R.S.A. § 7302.
- C. **Exemption from Filing Requirements.** Interexchange carriers other than ILECs shall be exempt from those provisions of Chapters 110 and 120 that require notice to customers and to the Commission and the filing of specified information at the time a utility files a "general increase in rates" as defined in 35-A M.R.S.A. § 307, unless the Commission orders otherwise in a particular case.

§ 10 NOTICE BY ALL INTEREXCHANGE CARRIERS PRIOR TO EFFECTIVE DATE OF RATE INCREASES

- A. **General Requirement.** At least 15 days prior to the effective date of a rate increase of 20% or more in the rate for any individual interexchange service offered by any interexchange carrier (IXC) (including LECs offering interexchange service) that is subject to the authority of the Commission, the IXC shall send notice by a bill insert or by separate mailing to all affected customers, as defined in subsection C. For the purpose of this section, a rate shall be considered to be increased by 20% if rate increases for the service, including the current increase, cumulatively amount to 20% or more over the year prior to the current increase. For the purpose of this section, a "rate increase" shall include any term and condition that has the effect of raising a rate for one or more customers.
- B. **Cancellation Period Added to Notice Period.** If a rate (including a rate pursuant to special contract) contains a term and condition stating that cancellation of a service by a customer will not be effective until a stated time period following notice given by the customer to the interexchange carrier, the notice period applicable to the interexchange carrier required by subsection A of this section shall equal 15 days plus the length of the period required for the customer to provide notice of cancellation.

- C. **Affected Customer: Definition.** A customer is affected by a rate if the customer has used the service that is subject to the rate increase of 20% or greater and has incurred total charges for the service of \$5 or more, during either the month prior to or after the filing of the proposed increase, or has incurred charges for the service that total \$15 or more for the 3 month period prior to the filing of the proposed increase.
- D. **Alternative Compliance.** An interexchange carrier may satisfy this requirement by sending notice of all increases of 20% or more to all its customers.
- E. **Exemption.** An incumbent local exchange carrier or any other interexchange carrier that has complied with the notice requirements of Chapter 110, § 718 following a general rate case is not required to comply with this subsection.

§ 11 REPORTS AND RECORDS

- A. **Annual Reports.** All interexchange carriers subject to the authority of the Commission are exempt from the annual report and other requirements of Chapter 210 (Uniform System of Accounts for Telephone Utilities) of the Commission's Rules. They shall, however, annually provide the Commission, in a manner prescribed and on forms specified by the Commission, with a report of its annual revenues, total minutes of use sold, the annual revenues derived from sales for resale and the number of minutes of use sold to resellers.
- B. **Records.** All telecommunications carriers subject to the provisions of this Chapter shall maintain records sufficient to identify and to allow auditing of traffic volumes, intrastate interexchange billings for both retail and wholesale services, and all information that is necessary to calculate access or interconnection charges in accordance with this Chapter. Those records shall be maintained for a minimum of 2 calendar years.

§ 12 WAIVER OF 35-A M.R.S.A. §§ 707 AND 708; NOTICE REQUIREMENT

- A. **Waiver.** Subject to the conditions described in subsections B and C below, interexchange carriers subject to the jurisdiction of the Commission shall be exempt from the requirement of 35-A M.R.S.A. § 708(2) that each reorganization (defined in 35-A M.R.S.A. § 708(1)) of a public utility be approved by the Commission.

- B. **Notice Requirement.** Each telephone utility that is exempt pursuant to subsection A from the requirement that reorganizations be approved shall file notice with the Commission of a reorganization if that reorganization results in a merger, sale or transfer of a controlling interest of the public utility or of any entity that owns more than 50% of the public utility. The notice required by this subsection shall be filed within 10 days following any reorganization described herein.
- C. **Changes of Name, Business office and Contact Person; Notice.** Each public utility subject to the exemption contained in subsection A that has changed its name, the name under which it does business (d/b/a), the location of its business office, and its contact person shall provide the Administrative Director of the Commission with notice of that change within 30 days following the change.

§ 13. *REPEALED*

§ 14 **COMMISSION REVIEW**

Any person aggrieved may obtain review of decisions by any local exchange carrier that has not provided a retail service, wholesale access services or any telecommunications facilities requested by that person, following the process described in section 5. The aggrieved person may refer the matter to the Commission for Staff resolution. The matter will be treated as an informal complaint submitted for resolution by the Staff under section 1102 of Chapter 110 of the Commission's rules. If a party is not satisfied with the Staff's resolution, it must file a written request for Commission review within 7 business days following the issuance of the resolution by the Staff. Failure to file a timely request for Commission review of the Staff's resolution shall constitute acceptance of the resolution and waiver of further opportunity to be heard with respect to the matter.

Receipt of a request for Commission review shall be treated as a request for investigation pursuant to 35-A M.R.S.A. § 1303. A summary investigation shall be conducted, after which the Commission shall determine whether a formal investigation is warranted. If it decides to commence a formal investigation, the Commission shall may affirm, reverse, or modify the Staff's resolution. If the Commission decides not to commence a formal investigation, failure to act in accordance with the Staff's resolution shall constitute grounds to commence a formal investigation pursuant to section 1303 and the initiation of a proceeding to issue a temporary order pursuant to 35-A M.R.S.A. § 1322.

§ 15 **WAIVER OF PROVISIONS OF CHAPTER**

Any telecommunications carrier subject to the provisions of this Chapter may request that the Commission waive some or all of the requirements of this Chapter. Where good cause exists, the Commission, the Administrative Director, the Director of Technical Analysis, or the Hearing Examiner assigned to a proceeding involving the subject matter of the waiver may grant the requested waiver, provided that the granting of the waiver would not be inconsistent

with the intent of this Chapter. The waiver shall be applicable only to the specific application under consideration.

STATUTORY AUTHORITY: 35-A M.R.S.A. §104, 111, 301, 1301, 2102, 2105, 2110. 7101, 7101-B, 7104-A and 7303.

EFFECTIVE DATE:

November 27, 1988

AMENDED:

November 19, 1991

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 4, 1996

AMENDED:

June 18, 1997

NON-SUBSTANTIVE CORRECTION:

August 19, 1997 - insertion of missing 3(C) in Table of Contents.

AMENDED: This amendment was approved as to form and legality by the Attorney General on December 19, 1997. It was filed with the Secretary of State on December 19, 1997 and became effective on December 24, 1997.

NON-SUBSTANTIVE CORRECTIONS:

January 26, 1998 - statutory citations in §9 (B) and 14.

AMENDED: This amendment was approved as to form and legality by the Attorney General on March 19, 2003. It was filed with the Secretary of State on March 27, 2003 and became effective on April 1, 2003.

AMENDED: This rule was approved as to form and legality by the Attorney General on July 16, 2003. It was filed with the Secretary of State on July 17, 2003 and became effective on July 22, 2003.

CORRECTED:

August 11, 2003 - proper integration of April 1 and July 22, 2003 filings under the authority of an August 4, 2003 memo from PUC General Counsel Joanne B. Stenneck.

Maine Revised Statutes

▼ [§2102 PDF](#)

▼ [§2102WORD/RTF](#)

➤ [STATUTE SEARCH](#)

◀ [CH. 21 CONTENTS](#)

◀ [TITLE 35-A CONTENTS](#)

◀ [LIST OF TITLES](#)

➤ [DISCLAIMER](#)

◀ [MAINE LAW](#)

◀ [REVISOR'S OFFICE](#)

◀ [MAINE LEGISLATURE](#)

[§2101](#)

Title 35-A: PUBLIC

[§2103](#)

UTILITIES HEADING: PL 1987, C. 141, PT. A, §6 (NEW)

Part 2: PUBLIC UTILITIES HEADING: PL 1987, C. 141, PT. A, §6 (NEW)

Chapter 21: ORGANIZATION, POWERS, SERVICE TERRITORY HEADING: PL 1987, C. 141, PT. A, §6 (NEW)

§2102. Approval to furnish service

The following provisions apply to furnishing service. [1987, c. 141, Pt. A, §6 (NEW).]

1. Approval required. Except as provided in subsection 2 and in section 4507, a public utility may not furnish any of the services set out in section 2101 in or to any municipality in or to which another public utility is furnishing or is authorized to furnish a similar service, and a dark fiber provider may not offer federally supported dark fiber, without the approval of the commission. The commission may condition approval upon the submission of a bond or other financial security if the commission determines that such a requirement is necessary to ensure that a public utility has the financial ability to meet its obligations under this Title.

A. The commission may not grant approval to a telephone utility under this subsection unless the telephone utility submits evidence satisfactory to the commission that the telephone utility has at least \$250,000 in fixed assets in this State or the telephone utility purchases and maintains a surety bond satisfactory to the commission in the amount of \$250,000 to ensure the telephone utility has the financial ability to meet its obligations under this Title. This paragraph does not apply to a telephone utility authorized to provide telephone service in this State on the effective date of this paragraph. [2007, c. 638, §1 (NEW).]

[2009, c. 612, §5 (AMD) .]

2. Approval not required. Except as provided in section 2104, the commission's approval is not required for a public utility to furnish service in any municipality in which that public utility is furnishing service on October 8, 1967. Approval is not required for the operation of a radio paging service or mobile telecommunications services. Approval is not required for a transmission and distribution

utility to distribute electricity to any other transmission and distribution utility.

[1999, c. 398, Pt. A, §§104, 105 (AFF); 1999, c. 398, Pt. A, §30 (AMD) .]

2-A. Northern Maine Transmission Corporation.

[2003, c. 506, §11 (RP) .]

3. Exemption for certain telephone utilities. The commission by rule may exempt a specified telephone utility or group of telephone utilities from obtaining the approval required by subsection 1 if the commission finds that the exemption will not result in unjust or unreasonable rates or inadequate service for any telephone utility customers. The commission may limit the exemption to specified geographic areas. For good cause, as provided in the rule establishing the exemption, the commission may revoke an exemption in whole or in part, including an exemption granted to a single telephone utility. A telephone utility that is exempt from the approval requirement of subsection 1:

A. Before commencing service, shall notify the commission of its intent to commence the exempted service and provide any other information the commission may require; [1997, c. 118, §1 (NEW).]

B. Shall obtain the approval of the commission under subsection 1 to provide any service other than the services specified in the exemption granted by the commission under this subsection; and [1997, c. 118, §1 (NEW).]

C. Remains subject to any other applicable provisions of this Title and commission rules. [1997, c. 118, §1 (NEW).]

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Joint Standing Committee on Utilities and Energy by January 1, 1999.

[1997, c. 569, §1 (AMD); 1997, c. 569, §2 (AFF) .]

4. Dark fiber provider. The commission shall issue its order approving or denying an application from a dark fiber provider for approval under this section, including its decision on any waivers or exemptions requested by the dark fiber provider in conjunction with its application, within 60 days of receipt of the application, except that if the commission determines that it requires additional time, it may extend its review and issue its order no later than 90 days after receipt of the application.

[2009, c. 612, §6 (NEW) .]

SECTION HISTORY

1987, c. 141, §A6 (NEW). 1991, c. 342, §4 (AMD). 1997, c. 118, §1 (AMD). 1997, c. 569, §1 (AMD). 1997, c. 569, §2 (AFF). 1999, c. 398, §§A104,105 (AFF). 1999, c. 398, §A30 (AMD). 1999, c. 513, §7 (AMD). 2003, c. 505, §28

(AMD). 2003, c. 506, §11 (AMD). 2007, c. 638, §1 (AMD).
2009, c. 612, §§5, 6 (AMD).

Data for this page extracted on 08/11/2010 03:09:12.

**The Revisor's Office cannot provide legal advice or
interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.**

[Office of the Revisor of Statutes](#)

7 State House Station
State House Room 108
Augusta, Maine 04333-0007

Maryland Telecommunications Staff APPLICATION FOR OPERATING AUTHORITY

Company Name: _____

Instructions:

Column 1: Company to provide the indicated information or reference any exhibits or attachments where the information is found.

Columns 2 and 3: Reserved for Commission Use.

	1	2	3
OPERATING AUTHORITY PROVISIONS	COMPANY	STAFF	
		OK or Mail Log No.	✓
<p>1. Petition for Operating Authority: Companies that provide telecommunications services, operate a network (or lease pieces) and hold their services out to the general public (or other carriers), must receive authority to operate in the State. The Applicant must submit a completed original and 14 copies and diskette of this application to: Executive Secretary, Maryland Public Service Commission, 6 St. Paul Street, Baltimore, MD 21202. The application will be assigned a File Number (TE-XXXX) and be given to a Staff analyst for review. The File Number must be used in all further correspondence regarding the application. The Commission will not consider a CLEC interconnection or resale agreement until an application is approved.</p>			
<p>2. Certified Responses to Maryland Application: Please check all that are applicable:</p>			
A	Type of authority requested		
	i. Resold local exchange		
	ii. Facility-based local exchange		
	iii. Resold inter-exchange		
	iv. Facility-based inter-exchange		
B	Indicate if you plan to offer:		
	i. Operator services		
	ii. Pre-paid Local		
<p>3. Authorized States: List the other states where the Company is authorized.</p>			
<p>4. Investigations and Bankruptcy: Indicate whether the Company has ever had any investigations by State or Federal regulatory authorities, or any bankruptcy. If so, include explanation and final order.</p>			
<p>5. Underlying Carriers and Billing Agents: List any underlying carriers and billing agents.</p>			
<p>6. Marketing and Anti-Slamming: Provide a brief description of marketing practices and anti-slamming measures.</p>			

<p>7. Assessments & Taxation: The PSC application must include a copy of the Foreign Corporation qualification certificate from the Department of Assessment and Taxation. The name on the certificate must match the applicant name. The certificate, <i>not</i> the application for the certificate, is required. Non-Maryland companies must register with the Department of Assessments and Taxation and be in good standing. Their web address is www.dat.state.md.us.</p>	<p>INDICATE WHAT ATTACHMENT OR EXHIBIT CONTAINS THE CERTIFICATE</p>		
<p>8. PSC Assessments: The Company acknowledges that if authorized, it will be assessed a PSC assessment fee. The Company will receive a revenue request and an assessment invoice from the PSC at the appropriate time.</p>			
<p>9. Maryland Relay Service and 9-1-1 Fees: The Company acknowledges that if the Company is granted authority to provide local exchange service, it will contact the Maryland Relay System for instructions on collecting the fee for relay service (www.mdrelay.org or phone 1-800-552-7724). Information on 9-1-1 fees may be obtained at www.dpacs.state.md.us/ensb/ or phone 410-585-3015.</p>			
<p>10. Maryland 2-1-1: The Company acknowledges that if the Company is granted authority to provide local exchange service, it will comply with State rules regarding 2-1-1 service. (Contact information available at http://www.uwcm.org/uwcm/211-carrier-info).</p>			
<p>11. Articles of Incorporation: The name on the Articles of Incorporation and Amendments must match the applicant name. If the name on the original document does not match, an Amendment referring to the name change must be included. 20.07.04.03A.</p>	<p>INDICATE WHAT ATTACHMENT OR EXHIBIT CONTAINS THE ARTICLES AND ANY AMENDMENTS</p>		
<p>12. Description of Proposed Services: Describe the proposed customers, services and technologies (e.g., residential, business, ISPs, inmate, prepaid local, toll, self-healing fiber ring, etc).</p>			
<p>13. Statement of Public Interest: The Company must describe why the services it proposes to provide are in the public interest.</p>			
<p>14. Designated Contacts: Provide information regarding the names, addresses, telephone numbers and email addresses of the Company contacts:</p>			
<p>A Regulatory / Legal contact person</p>			
<p>B Tariffs contact person</p>			
<p>C Consumer Complaints contact person</p>			

15. Technical and Managerial Information: Provide information that demonstrates the technical and managerial qualifications of the applicant (i.e., brief resumes of the officers or managers of the Company.)		INDICATE WHAT ATTACHMENT OR EXHIBIT CONTAINS THE TECHNICAL AND MANAGERIAL INFORMATION		
16. Financial Information:				
A	Financial information is required. COMAR 20.07.04.01. Provide a balance sheet and income statement for the most recent 12-month period or the applicant's most current fiscal year. If the parent company or owner(s) guarantees the operations of the applicant, then the financials of the parent company or owner(s) must be filed. The Company cannot rely on the statements of a predecessor company.	INDICATE WHAT ATTACHMENT OR EXHIBIT CONTAINS THE FINANCIAL INFORMATION		
B	If a company has not been in business long enough to have a 12-month statement, it must file year-to-date information. If the Company has not been in operation at all, there may be some zeros on the financial statement.	INDICATE WHAT ATTACHMENT OR EXHIBIT CONTAINS THE FINANCIAL INFORMATION		
C	The Commission will evaluate the Company's financials and determine whether a Letter of Guarantee is required. A parent company or individual owner, may provide a Letter of Guarantee signed and notarized by an officer or the individual. The letter must state that the Company or individual "guarantees" or "shall guarantee" the operations of XYZ Company in Maryland. Conditional wording such as "intends to guarantee" is unacceptable. The guarantee must be unqualified and unconditional. The party providing the guarantee must demonstrate its financial condition by providing financial statements (if a Company) or personal statement of net worth (if an individual). If the Company is a corporation, the guarantee must be signed by an officer of the Company and notarized. The guarantor may petition the Commission to be released from the guarantee at a future date when the applicant is financially stable.			
D	The financials must be done in accordance with GAAP (not "cash basis"). Indicate below that financial information includes:			
	i.	Revenues		
	ii.	Net Income (Loss)		
	iii.	Total Assets		
	iv.	Current Assets		
	v.	Total Liabilities		
	vi.	Current Liabilities		
	vii.	Retained Earnings		
	viii.	Net Worth or Stockholder's Equity		
17. Tariffs: The Company acknowledges that if authorized, it will file appropriate tariffs. The tariffs must be approved by the Commission prior to the provision of any telecommunications service in Maryland. <i>For facilities-base local exchange companies, this includes filing a switched access tariff.</i>				
Revised September 23, 2008				
DDM 000401				

18. Waivers: Applicants are eligible for waivers from certain Maryland regulations *but only upon request*. (COMAR 20.45 is available electronically at <http://www.dsd.state.md.us/comar>)

The following table lists the waiver groups that may be requested based on the type(s) of authority requested. First determine the type(s) of authority requested and then identify the eligible waiver group(s). The types of authority are: local resale (L-R), local facilities-based (L-F), interexchange resale (I-R), and interexchange facilities-based (I-F).

	Type of Authority Requested	Eligible Waiver Groups
1.	I-F	A
2.	I-R	B
3.	L-F	C
4.	L-R	C
5.	I-F, I-R	A
6.	L-F, L-R	C
7.	I-F, L-R	A, C
8.	I-R, L-F	B, C
9.	I-F, L-F	A, C
10.	I-R, L-R	B, C
11.	I-R, L-F, L-R	B, C
12.	I-F, L-F, L-R	A, C
13.	I-F, I-R, L-R	A, C
14.	I-F, I-R, L-F	A, C
15.	I-F, I-R, L-F, L-R	A, C

<p>Waiver Group A</p> <p>Interexchange Facilities-Based</p> <p>(Interexchange carriers, Long-distance carriers)</p>	<p>Upon request, the Commission grants the following waivers to facilities-based interexchange service companies. Order No. 66765, <u>MCI Telecommunications</u>, 75 MD PSC 331 (1984). PUC § 4-203, which requires a 30-day notice period for tariff revisions, is not included in these waivers.</p> <p>20.45.02.01 20.45.02.03B, .03H 20.45.02.04A, .04B 20.45.04.02A 20.45.04.08A, .08C, .08D, .08E 20.45.04.09A, .09B, .09C (insofar as this provision applies to LEC service), .09D 20.45.04.10 20.45.04.11 20.45.04.12 20.45.05.01A, .01B 20.45.05.02B, .02C 20.45.05.03B, .03E, .03F 20.45.05.04 20.45.05.05 20.45.05.06 20.45.05.07B, .07C, .07D, .07F 20.45.05.08B, .08C, .08D, .08E, .08F 20.45.05.09C, .09E, .09H, .09I 20.45.06.01 20.45.06.02 20.45.06.03 20.45.07.01 20.45.07.02A, .02B 20.45.07.03</p>	<p>DOES THE APPLICANT REQUEST A WAIVER OF THESE REGULATIONS? (Yes or no)</p> <p>(See above table indicating if the Company is eligible for these waivers)</p>	
--	---	---	--

<p>Waiver Group B</p> <p>Interexchange Resale Only</p>	<p>Upon request, the Commission grants the following waivers to resale interexchange companies. Order No. 66319 (1983) <i>In the Matter of the Commission's Policy on Resale of Telephone Service</i>. PUC § 4-203, which requires a 30-day notice period for tariff revisions, is not included in these waivers.</p> <p>20.45.02.01 20.45.02.03B, .03E, .03G, .03H 20.45.02.04A, .04B 20.45.04.08A, .08C, .08D, .08E, .08F 20.45.04.09A, .09B, .09C (insofar as this provision applies to LEC service), .09D 20.45.04.10 20.45.04.11 20.45.04.12 20.45.05.01A, .01B, .01C 20.45.05.02B, .02C 20.45.05.03B, .03C, .03D, .03E, .03F 20.45.05.04 20.45.05.05 20.45.05.06 20.45.05.07B, .07C, .07D, .07F 20.45.05.08B, .08C, .08D, .08E, .08F 20.45.05.09C, .09E, .09H, .09I 20.45.06.01 20.45.06.02 20.45.06.03 20.45.07.01 20.45.07.02A, .02B 20.45.07.03 20.07.04.03 (in part)</p>	<p>DOES THE APPLICANT REQUEST A WAIVER OF THESE REGULATIONS? (Yes or no)</p> <p>(See above table indicating if the Company is eligible for these waivers)</p>	
<p>Waiver Group C</p> <p>Local Exchange Facilities-Based and/or Resold</p> <p>(CLECs, Competitive Local Exchange Carriers)</p>	<p>Upon request, the Commission grants the following waivers to local exchange companies. Order No. 71155, <u>MFS</u>, 85 MD PSC 38, 50-51 (1994). <u>Also see</u>, Order No. 72432, <u>AT&T</u>, 87 MD PSC 19, 21 (1996). PUC § 4-203, which requires a 30-day notice period for tariff revisions, is not included in these waivers.</p> <p><u>20.45.02.01</u> (Utility's records must be kept in Maryland) <u>20.45.02.03B</u> filing of exchange maps with Commission may be waived if exchange boundaries are identical to Verizon-MD's. The Company must reference Verizon-MD's exchange maps and list the exchanges in which it provides services (in its tariff). If exchange boundaries are not identical with Verizon-MD's then maps must be filed with the Commission. <u>20.45.02.03C</u> can be waived in part, but abbreviated construction reports must still be filed. <u>20.45.02.03E</u> (Improved Measurement Reports) <u>20.45.02.04</u> (General Reporting Procedures) <u>20.45.04.03B</u> maps available at business office for quoting rates to the public may be waived if exchange boundaries are identical to Verizon-MD's. If exchange boundaries are not identical with Verizon-MD's then maps must be available at any business office maintained in Maryland. <u>20.45.04.11</u> (publish "white pages" directory) <u>20.45.05.01B</u> (provision of coin telephone service)</p>	<p>DOES THE APPLICANT REQUEST A WAIVER OF THESE REGULATIONS? (Yes or no)</p> <p>(See above table indicating if the Company is eligible for these waivers)</p>	

19. Prepaid Local Service: Prepaid local service providers are required to obtain an insurance (surety) bond for \$5,000 with a one-year term. The Company must obtain the bond before being granted authority, and must file with the Commission proof that said bond has been obtained. A form for proof of the bond is available from kcyphert@psc.state.md.us

INDICATE WHAT ATTACHMENT OR EXHIBIT CONTAINS THE SURETY BOND

20. Expanding Operating Authority: When a carrier desires to expand its operating authority (i.e., a long distance reseller may wish to become a facilities-based interexchange carrier), the carrier must submit a new application as if it was not certified at all.

21. Reinstatement: If a Company lost its operating authority and seeks to regain it, the Company may file with the Commission a letter seeking reinstatement, must claim that the Company's qualifications have not changed substantially, attach proof of good standing from the Maryland Department of Assessments and Taxation, and file an initial tariff.

22. Shared Tenant Service: Authorization and tariffs are needed for CLECs selling to building owners, not for the individual building owner who sells to tenants. STS providers must provide certain information to the Commission within 30 days. STS providers must permit customers to use other carriers. See, Case No. 7990, Order 67892 (1987).

John P. McDonough, Secretary of State ~ Brian R. Moe, Deputy Secretary of State
Gail S. Klakring, Acting Administrator, Division of State Documents

[<< Back](#) | [Return to Main COMAR Search Page](#)

15 records match your request.

File	Abstract
20.07.04.00.htm	20.07.04.00. Title 20 PUBLIC SERVICE COMMISSION Subtitle 07 PRACTICE AND PROCEDURE Chapter 04 Applications Pursuant to the Public Utilities Article Authority: Public Utilities Article, §2-112, 2-115, 2-121, 3-101, 3-104, 4-101—4-207, 4-503, 5-103, 5-201—5-203, 5-205, 6-101—6-104, 7-210, and 9-103, Annotated Code of Maryland
20.07.04.01.htm	20.07.04.01. 01 Financial Condition Defined.. Whenever a corporation subject to the Public Utilities Article, Annotated Code of Maryland, is required or called upon to disclose its financial condition, whether under this subtitle or otherwise, the information shall be given, as far as practicable, in appropriate schedules, which shall show the following:A. Amount and classes of stock authorized;. B. Amount and classes of stock issued;. C. Terms of preference of all preferred stock;.
20.07.04.02.htm	20.07.04.02. 02 Applications for Authority to Issue Stocks, Bonds, Notes and Other Evidences of Indebtedness.. A. Application. Except for an application to issue rate stabilization bonds under Regulation .11 of this chapter, an application made to the Commission by a public service company for authority under Public Utilities Article, §6-102, Annotated Code of Maryland, to issue any stock, bonds, notes, or other evidences of indebtedness shall include:1) The amount and terms o
20.07.04.03.htm	20.07.04.03. 03 Applications by Corporations for the Exercise of Franchises.. A. Exercise of Railroad Franchises. Applications by corporations subject to the provisions of Public Utilities Article, §5-201, Annotated Code of Maryland, for permission to begin the construction of a railroad, or an extension of it, or to exercise any franchise or right, as provided in §5-201, shall state:1) The route of the proposed railroad or street railroad, or extension of it, giving the names of al
20.07.04.04.htm	20.07.04.04. 04 Applications for Approval of Assignment, Transfer, or Lease of Franchises.. In all applications under the Public Utilities Article, Annotated Code of Maryland, for the approval of the assignment, transfer, or lease of a franchise, or of any right to or under a franchise, or of a corporation's works or system, or for the approval of a contract or agreement with reference to or affecting any of the same, the petition shall be made by all the parties to the proposed transact
20.07.04.05.htm	20.07.04.05. 05 Applications for Authority to Acquire Shares of Stock.. In all applications made to the Commission by corporations for authority to purchase or acquire, take or hold, any part of the capital stock of any other corporation or corporations, the petition shall show:A. In detail, the reasons why the applicant desires to make the proposed acquisition and all the facts warranting it, including the amount of stock in the same corporation or in any allied corporation

20.07.04.06.htm	20.07.04.06. 06 Applications by Municipalities for Authority to Operate Gas or Electrical Works.. All applications of municipalities, except the Mayor and City Council of Baltimore, under Public Utilities Article, §7-210, Annotated Code of Maryland, for authority to build, maintain, and operate, for other than municipal purposes, any works or systems for the manufacture and supplying of gas or electricity for lighting purposes, shall:A. Give the name and location of the principal off
20.07.04.07.htm	20.07.04.07. 07 Applications for Authority to Increase Rates, Fares, and Charges.. A. A public service company earning in excess of \$25,000,000 in gross annual intrastate revenue shall file with the Commission the direct testimony and exhibits of its witnesses concurrently with its application for authority to increase its rates and charges.B. All gas, electric, or telephone public service companies filing an application with the Commission for authority to increase rates and charges unde
20.07.04.08.htm	20.07.04.08. 08 Rate Making—Revenues and Expenditures.. A. Revenues and expenditures credited or charged to Accounts 415 through and including 418 of the Uniform System of Accounts, as prescribed by the Federal Energy Regulatory Commission, relating to merchandising, jobbing, and contract work will not be allowed for rate making purposes in rate matters.B. Charitable contributions, penalties, and lobbying expenses recorded in Account 426.1, 426.3, and 426.4, respectively, of t
20.07.04.09.htm	20.07.04.09. 09 Filing of Proposed Changes in Rates.. A. Every gas, electric, steam heat, telephone, water, or sewage disposal company when filing pursuant to Public Utilities Article, §4-203, Annotated Code of Maryland, any proposed change in rates or regulations to its current tariff (for a typical illustration of a currently effective schedule, see §D of this regulation) shall show by brackets the rates or language proposed to be eliminated and show by underscorings the p
20.07.04.10.htm	20.07.04.10. 10 Notice of Proposed Changes in Rates.. A. A public service company engaged in the transportation of passengers by motor vehicle proposing any tariff revision or change of rate shall notify its customers and patrons of the proposed tariff revision or change of rate by use of a form of notice as follows:NOTICE OF PROPOSED TARIFF CHANGE _Name of Company) has filed with the Public Service Commission of Maryland a proposal to (Here describe proposal) Further details will be supp
20.07.04.11.htm	20.07.04.11. 11 Application for a Qualified Rate Order and Authority to Issue Rate Stabilization Bonds.. A. Application. An application filed with the Commission by an electric company for a qualified rate order and authority under Public Utilities Article, §7-526, 7-533, or 7-534, Annotated Code of Maryland, to issue rate stabilization bonds shall include:1) The amount and terms of the proposed qualified rate stabilization bond issue;. 2) The components of the rate stabilization costs;.
20.07.04.12.htm	20.07.04.12. 12 Other Applications.. All applications relating to matters within the jurisdiction of the Commission, and which are not governed by any of the above regulations shall in every case be made by petition, setting forth clearly the matter complained of, and giving the name of the person, firm, or corporation complained of. Thereupon, the procedure

	shall be such as the Commission may prescribe.
20.07.04.13.htm	20.07.04.13. 13 Required Number of Copies.. Unless otherwise specifically required in this chapter, the applicant shall file with the Commission an original and 14 copies of the application and all required documents.
20.07.04.9999.htm	20.07.04.9999. Administrative History Effective date: August 15, 1910. Regulations .01—06 and .12 revised effective May 8, 1911, May 3, 1912, and October 19, 1914.. Regulation .02 amended effective September 21, 1986 (13:19 Md. R. 2122) January 1, 2007 (33:26 Md. R. 1998)Regulation .07 adopted effective January 23, 1981 (8:2 Md. R. 118). Regulation .07C amended effective May 10, 1982 (9:9 Md. R. 911). Regulation .08 effective August 3, 1968 (Order No. 62950).

[<< Back](#) | [Return to Main COMAR Search Page](#)



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

APPLICATION FOR REGISTRATION FOR TELECOMMUNICATIONS SERVICE PROVIDERS OTHER THAN PAYPHONE SERVICE PROVIDERS

STATEMENT OF BUSINESS OPERATIONS (SBO)

Revised 5/2010

Date:

Please check appropriate box:

- Initial SBO
 Amended SBO
Reason:
Effective:

Part I

1. Legal Name of Registrant	
2. Doing Business As (DBA)	
3. Federal Taxpayer ID No.	
4. Address - Corporate Office (Street, City, State, Zip +)	
5. Main Telephone Number	
6. Customer Service Number	
7. Website/URL	http:// www.

8. Please provide the following information for the regulatory contact person to work with the Department on the following:	
A. Issues related to processing this Registration and tariff filing only	Name/Title Mailing Address Direct Phone No. Direct Facsimile No. Email Address
B. Issues related to consumer complaints (not the general customer service department)	Name/Title Mailing Address Direct Phone No. Direct Facsimile No. Email Address
C. All other regulatory-related issues (in-house)	Name/Title Mailing Address Direct Phone No. Direct Facsimile No. Email Address

9. Authorized As:		
10. Technology Type: <input type="checkbox"/> Circuit Switch	<input type="checkbox"/> VoIP	<input type="checkbox"/> Other
11. Provide a clear and concise summary of the specific services the Registrant will be offering (<u>e.g.</u> , local, interexchange, bundled local and interexchange services, wholesale or carrier-to-carrier services; package of regulated and/or unregulated telecom services; bundle of voice and/or video and/or wireless and/or broadband, such as voicemail, call forwarding or vertical features.		

12. Registrant will be providing telecommunications services as indicated:

- Residential
 Business
 Wholesale/Carrier-to-Carrier

Services Provided Using:

- Facilities-based service
 Reseller
 Leased Facilities
 Own Network
 Leased Facilities Non-UNE
 Underlying Carrier

13. Registrant's initial tariff offers the following services: (check all that apply)

Services	If any of the services are sold on a prepaid basis	Residential	Business
<input type="checkbox"/> Local Exchange	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Lifeline/Linkup	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Long Distance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Calling Card	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Operator Services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Operator Services at traffic aggregated locations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Payphone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Inmate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Data (explain below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Other (explain below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

14. If the Registrant will be providing operator-assisted service, describe how: (A) a company operator would be reached, e.g. dial 00; (B) an emergency-type call will be handled.

15. Please list alphabetically names of cities and/or towns served. (Attachment Acceptable)

16. If a corporation, please:

A. Provide the date of organization

B. Indicate the jurisdiction under the laws of which it is organized

C. Provide the following information as to each officer, director and stockholder owning of record, or beneficially, 10% or more of Registrant's outstanding capital stock:

Name/Title

Address

Percent & Class of
Shares

17. All businesses incorporated in states other than the Commonwealth which are doing business in Massachusetts must register with the Secretary of the Commonwealth (SOC) within ten days after they commence doing business in the state by filing a foreign registration certificate. Failure to register may result in the imposition of fines and/or an injunction restraining the further prosecution of business in the Commonwealth by the foreign corporation.

A copy of the SOC Foreign Registration Certificate:

is attached.

will be filed with the DTC within the following 30 days.

<http://corp.sec.state.ma.us/Portal/PortalPage.htm>

Part II

OPERATOR SERVICE PROVIDER - CONSUMER PROTECTION POLICIES

The term "operator-service provider" (OSP) generally refers to a telecommunications service company that handles live- and/or mechanized operator-assisted calling, such as calls placed on a collect, third-party billed and/or person-to-person basis, from locations such as payphones and other traffic aggregator locations (e.g., hotels, hospitals).

OSPs must adhere to the following Department policies:

- A. OSPs must be registered and have an approved tariff of intrastate rates and charges on file with the Department.
- B. OSP rate disclosure requirements similar to rules adopted in January 1998 by the Federal Communications Commission, effective July 1, 1998. OSPs must notify callers orally of how they can obtain rate information for their operator-assisted calls, i.e., the *total cost* of the call, including any aggregator surcharges, premise-imposed surcharges, and how consumers may access the long distance carrier of their choice, before connecting and billing for the OSP call(s).
- C. OSP consumer information labels/placards/tent cards must clearly state:
 - the name and address of the OSP
 - the OSPs 800 telephone number
 - that rate information is available from the OSP operator 24 hours a day, seven days a week
 - procedures for reporting service problems, obtaining billing information, and how to access emergency services
 - that the end-user has a right to appeal any **UNRESOLVED** disputes concerning intrastate calls to:

Massachusetts Department of Telecommunications & Cable
Consumer Division
1000 Washington Street, Suite 820
Boston, MA 02118-6500
(617) 305-3531 or Toll-free within MA (800) 392-6066
- D. **A sample/draft of the above-described OSP consumer information material must be submitted to the DTC for approval.**
- E. OSPs must provide the DTC-approved consumer information material to all traffic aggregators, who in turn, must prominently display at traffic aggregator locations.
- F. OSPs must include language in their **intrastate** tariff indicating that the traffic aggregator is required to post the OSPs consumer information label at all its locations, and that pursuant to the OSPs tariff, any violation of this provision could result in disconnection of the traffic aggregator's service(s).

Inmate Calling Services

Usage rates for inmate calling services are capped at \$1.50 per call. The maximum surcharge is \$3.00 for such calls.

Registrant attests that it will comply with the above requirements:

Authorized Signature/Title

Date

Part III

MASSACHUSETTS STATE TAX ATTESTATION

In accordance with Massachusetts General Laws, Chapter 62C, Section 49A, I hereby certify under the pains and penalties of perjury that the Registrant, to the best of my knowledge and belief, has filed all Massachusetts state tax returns and paid all Massachusetts state taxes required by law. I also certify, under the pains and penalties of perjury that the Registrant, to the best of my knowledge and belief, has filed and paid all federal taxes required by law.

Federal Taxpayer Identification No.

Signature of Corporate Officer
if Registrant is a corporation

Social Security Number

Signature of Individual, if applicable

Date

AFFIDAVIT

The undersigned declares under penalty of perjury that they are authorized to make this verification for, and on behalf of, the Registrant; that they have read the information provided by the Registrant in the foregoing document, and is informed and believes the same are true and on that ground affirms that the matters therein stated are true.

In addition, the undersigned, on behalf of the Registrant, attests that the Registrant will comply with all applicable Massachusetts laws and rules, Department Orders, regulations, letter rulings, directives and other requirements, whether formal or informal.

Registrant understands that failure to comply will be grounds for the Department to cancel the Registrant's registration/SBO and tariff(s), thus preventing the Registrant from operating and/or providing telecommunications services within Massachusetts.

Dated this _____ day of _____, _____

Legal Name of Registrant _____

By _____
(Print Name)

(Signature/Title)

NOTARIZE BY:

SUBSCRIBED AND SWORN to before me

this _____ day of _____, _____

Notary Public

The Official Website of the Office of Consumer Affairs & Business Regulation (OCABR)

Mass.Gov

Consumer Affairs and Business Regulation

Home > Government > Our Agencies and Divisions > Department of Telecommunications and Cable > Administration Division >

Filing Instructions

By the [Department of Telecommunications and Cable](#)

Competition Division

Telecommunications Proceedings

All documents filed in Telecommunications proceedings must comply with the filing requirements set forth in [220 C.M.R. Â§ 1.00 et seq.](#) **RFP**, including the requirement that said documents be submitted on paper to Catrice C. Williams, Secretary, Department of Telecommunications and Cable, Two South Station, Boston, Massachusetts 02110. Persons filing paper documents with the Department also must comply with any additional paper filing requirements as specified by the Order of Notice or by the Hearing Officer in each proceeding.

In addition to paper filing requirements, all documents filed in Telecommunications Division proceedings should be submitted in electronic format using one of the following methods: (1) by e-mail attachment to Competition.Inquiry@state.ma.us, or (2) on a 3.5" disk or CD-ROM. The text of the e-mail, disk label, or CD-ROM must specify: (1) the docket number of the proceeding, (2) name of the person or company submitting the filing, and (3) a brief descriptive title of the document. The electronic filing should also include the name, title and telephone number of a person to contact in the event of questions about the filing. Text responses should be created in either Corel WordPerfect, Microsoft Word, or Adobe Acrobat. Data or spreadsheet responses should be compatible with Microsoft Excel. The Department is unable to accept scanned files (including scanned "pdf" files) at this time. All documents submitted in electronic format will be posted on the Departments website: <http://www.mass.gov/dtc>.

Cable Proceedings

All documents filed in Cable proceedings must comply with the filing requirements set forth in [801 CMR 1.00 RFP](#), Standard Rules of Adjudicatory Practice and Procedures, including the requirement that said documents be submitted on paper to Catrice C. Williams, Secretary, Department of Telecommunications and Cable, Two South Station, Boston, Massachusetts 02110. Persons filing paper documents with the Cable Division also must comply with any additional paper filing requirements as specified by the [Filing Procedures Bulletin: Issued: August 5, 2005](#)

In addition to paper filing requirements, all documents filed in Cable proceedings should be submitted in electronic format using one of the following methods: (1) by e-mail attachment to Competition.Inquiry@state.ma.us, or (2) on a 3.5" disk or CD-ROM. The text of the e-mail, disk label, or CD-ROM must specify: (1) the docket number of the proceeding, (2) name of the person or company submitting the filing, and (3) a brief descriptive title of the document. The electronic filing should also include the name, title and telephone number of a person to contact in the event of questions about the filing. Text responses should be created in either Corel WordPerfect, Microsoft Word, or Adobe Acrobat. Data or spreadsheet responses should be compatible with Microsoft Excel. The Cable Division is unable to accept scanned files (including scanned "pdf" files) at this time. All documents submitted in electronic format will be posted on the Departments website: <http://www.mass.gov/dtc>.



© 2010 Commonwealth of Massachusetts

DDM 000416



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Rev. 5/2010

General Filing Information

The Department of Telecommunications and Cable (DTC or Department) has general supervision, regulation of, and jurisdiction and control over the provision of telecommunications services when furnished or rendered for public use within the Commonwealth. See Massachusetts General Law (MGL) Chapter 159, Section 12 (d).

In addition, MGL Chapter 159, Section 19 requires telecommunications service providers furnishing service within the Commonwealth to have on file with the Department all rates, rules and regulations, conditions and limitations for the provision of intrastate services.

A complete set of the MGLs are available online by going to <http://www.state.ma.us/legis/laws/mgl>.

Questions regarding this information should be addressed to the Competition Division at (617) 305-3580.

Package Materials

This package contains the following:

1. Filing and Reporting Requirements for Telecommunications Services Providers Offering Service in Massachusetts.
2. Sample Transmittal and Combined Transmittal/Explanation Letters, and Tariff Format.
3. Guidelines regarding Residential Billing and Termination Practices for Telecommunications Service Providers.

1. Filing and Reporting Requirements for Local and Interexchange Telecommunications Services Providers Offering Service in Massachusetts.

A. Registration/Statement of Business Operations

All telecommunications service providers proposing to offer telecommunications services (Registrants) must first register with the Department before commencing operations in the State. Registrants must submit a Registration/Statement of Business Operations (Registration/SBO), and certify that they will abide by all applicable administrative rules, policies and Orders of the Department. The Registration/SBO form is not included in this packet of material, and is posted as a separate document on the Telecom Division's webpage <http://www.state.ma.us/dtc/telecom> as *Registration/SBO*.

The Department will presume that Registrants possess the necessary qualifications to operate, a presumption which is subject to further analysis if a problem is raised by the public, another utility, or by the Department.

When completing the Registration/SBO, please respond fully to each item. If an item is not applicable, please indicate AN/A@ and explain why. If more space is needed to respond, use a separate sheet of paper.

Submit an original and two (2) copies of the completed Registration/SBO, along with any attachments to:

Catrice Williams, Secretary
Administration Division
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

There is no filing fee for the Registration/SBO.

B. Tariff Filings

Pursuant to Massachusetts General Law 159, Section 19 and 220 C.M.R. 5.00, Registrants are also required to have an approved tariff on file with the Department before offering intrastate services in Massachusetts. All tariff filings are subject to Department approval. Tariff filing fees (effective July 1, 2003):

Initial tariff or proposed revisions: \$100.00/per tariff/per filing, regardless of page length.

Multiple revisions to the same tariff (e.g. D.T.C. Tariff No. 1) are considered one filing. A revision to multiple tariffs (e.g. D.T.C. Tariff Nos. 1, 5 and 9) is considered three separate filings.

Tariff Transmittal and Explanation Letter

Pursuant to the Department's regulations (220 CMR 5.00), all tariff filings must be accompanied by a transmittal letter that indicates **the tariff number, the specific pages being filed, and a clear explanation of the proposed filing**. A sample transmittal letter is provided in this package.

Effective Date of Tariffs

When filing a tariff with the Department, sufficient time should be allowed to cover transmittal of the filing, i.e., 3 days if by First Class U.S. Mail, so that tariffs and schedules may become effective on the proposed effective date. Pursuant to MGL, Chapter 159, Section 19 and 220 C.M.R.5.00, common carrier tariffs become effective **30 days after the date of filing with the Department**, unless otherwise ordered by the Department.

Request for Expedited Effective Date of Tariffs

MGL, Chapter 159, Section 19 also provides the DTC with the **discretion** to allow tariffs to take effect before the expiration of the statutory 30 days, i.e., "expedited effective date." Requests for an expedited effective date must be made in a separate letter and accompany the tariff transmittal letter, and tariff pages reflecting the statutory 30-day issued/effective dates. Such a request must: (1) specify the reason the company is requesting effectiveness of the tariff on less than the statutory 30-day time frame; (2) specify the requested effective date, and (3) include the necessary filing fee of \$100.00 per request (in addition to the tariff filing fee).

Tariff filings will be reviewed for compliance with statutes and Department policies. If the Department has any questions regarding a filing, a staff person will contact the party responsible for the filing.

All service providers must maintain a copy of their tariff(s) to be made available for public inspection, both at the DTC's Boston office, and at the carrier's local office.

C. Annual Report/Revenue Statement/Utility Assessment

Massachusetts General Law Chapter 166, Section 11 provides that all telecommunications services providers doing business in Massachusetts must file an Annual Return with the Department, along with a \$5.00 filing fee, **on or before March 31**, for the year ending December 31 preceding. Failure to file an Annual Report may result in penalties, as outlined in M.G.L. c. 166, Section 12.

In addition, an Annual Revenue Statement indicating the amount of Massachusetts intrastate operating revenues must be filed with the Department and will be used for utility assessment purposes (Massachusetts General Law, Chapter 25, Section 18).

Copies of these form can be downloaded at www.state.ma.us/dtc/telecom under Applications and Forms. Questions concerning DTC Annual Reports, Revenue Statements, and utility assessments may be directed to the DTC's Administration Division at (617) 305-3580.

IMPORTANT - Please Note:

Certain service providers may also be subject to additional State reporting and/or filing requirements.

The Massachusetts Secretary of the Commonwealth (SOC) requires that certain corporations, limited partnerships, limited liability companies, and limited liability partnerships, file with the Corporations Division. Please refer to the Corporations Division link on the SOC's website at <http://www.state.ma.us/sec/index.htm>

State tax information can be obtained from the Massachusetts Department of Revenue (DOR) by going to its website at <http://www.dor.state.ma.us/> or by calling DOR's Taxpayer Services at (617) 887-MDOR or toll-free within Massachusetts at (800) 392-6089.

Other online information may also be obtained from the State's home web page at <http://www.mass.gov/portal/index.jsp>

2. Sample Transmittal letter for Company Filing an initial SBO/Registration and initial tariff with the Department

Date

Catrice Williams, Secretary
Administration Division
Massachusetts Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

RE: Your Company Name

Dear Secretary Williams:

Enclosed please find an original and a copy of our Statement of Business Operations/Registration, and our initial Tariff M.D.T.C. No. 1, consisting of Original pages 1 through 37.

The Company proposes to offer resold local and interexchange intrastate telecommunications services to non-residential subscribers in MA. Also enclosed is the appropriate tariff filing fee in the amount of \$ 100.00. As required by Massachusetts law,

the proposed tariff carries an effective date of at least thirty (30) days after the filing date with the Department.

Please acknowledge receipt of this filing by returning, file-stamped, the extra copy of this cover letter in the self addressed stamped envelope provided for that purpose.

Questions regarding this filing may be directed to [insert name] at [insert direct phone number AND email address].

Sincerely,

Company Representative/Title
or Consultant

enc.

Sample Transmittal / Explanation Letter re: Tariff Revisions.

Date

Catrice Williams, Secretary
Administration Division
Massachusetts Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

RE: Company Name
Tariff No. D.T.C. 4, Proposed Revisions for effect [insert date].

Dear Secretary Williams:

Enclosed please find an original and two (2) copies of revisions to our D.T.C. Tariff No. 4, that carries an issued date of [insert date] and effective date of [insert date]. The proposed filing consists of the following pages:

- 3rd Revised Page 6
- 8th Revised Page 7
- Original Pages 11 through 19.

These revisions increase the per-minute rates from \$0.14 to \$0.18 for customers subscribing to Dial One Service, and introduce several new discount plans for volume users. In accordance with DTC policy, the Company has provided at least thirty (30)

days advance written notice of the increase in rates to its customers. A copy of the customer notice is enclosed with this filing.

We have also enclosed the appropriate filing fee of \$100. Any questions regarding this filing should be directed to [insert name] at [insert direct phone number AND email address].

Please acknowledge receipt of this filing by returning the duplicate copy of this letter in the enclosed, self-addressed envelope.

Sincerely,

Company Representative

enc.

Tariff Format

Tariff filings must be submitted on standard 8 2" X 11" paper. The original tariff copy MUST be on 3-hole punched paper. The additional two copies may be submitted on plain paper.

1. Page Numbering - Page numbers should appear in the upper right-hand corner of the page. Pages should be numbered sequentially. When a new page is added between existing pages with whole numbers, a decimal is added. For example, a new page added between page 22 and 23 would be 22.1.
2. Page Revision Numbers - Revision numbers should also appear in the upper right-hand corner of the page. These numbers are used to determine the most current page version on file. For example, the 5th revised page 22 cancels the 4th revised page 22.
3. Numbering Sequence - There are various levels of alphanumeric coding. Each level is subservient to its next higher level. The following is an example of the numbering sequence suggested for use in tariffs.
 - 2.
 - 2.1
 - 2.1.A.
 - 2.1.A.1.(a)
 - 2.1.A.1.(a)I.

4. Coding of Tariff Revisions - Revisions to tariffs should be coded through the use of symbols. These symbols should appear in the right-hand margin of the page. Suggested symbols and their meanings are:

R - to signify a reduction
I - to signify an increase
C - to signify a changed regulation
T - to signify a change in text but no change in rate or regulation
S - to signify a reissued matter
M - to signify text relocated without change
N - to signify a new rate or regulation
D - to signify a discontinued rate or regulation
Z - to signify a correction

Other marginal codes can be used to direct the tariff reader to a footnote for specific information. Codes used for this purpose should be lowercase letters of the alphabet e.g., x, y, or z).

See also 220 CMR 5.00.

3. Guidelines regarding Residential Billing and Termination Practices for Telecommunications Service Providers

Providers of intrastate telecommunications *residential* services in Massachusetts must comply with certain billing and termination practices for *residential* customers, similar to those adopted by the Department for use by Bell Atlantic. See Docket D.P.U. 18448 (1977). These practices generally relate to billing and bill collection, residential telephone service termination, security deposit requirements, and the rights of residential telephone customers to be heard by the Department on billing matters that are in dispute with their telecommunications company.

Companies proposing to provide telecommunications services to presubscribed *residential* customers should refer to item 7 in this package which is a copy of *DPU 18448 - RULES AND PRACTICES RELATING TO TELEPHONE SERVICE TO RESIDENTIAL CUSTOMERS* as a template in preparing their own billing practices, to be filed with the service providers intrastate tariff. A company may revise certain terminology and rules, or request exemption(s) from certain requirements, if such provisions, terms or rules, are not applicable, as long as the change(s) and/or exemption(s) are not considered by the Department to result in substantive changes in a residential customers rights.

These billing practices, along with the company's tariff, will then be individually reviewed by the Department. A company which is able to comply with all billing and collections practices as set forth in D.P.U. 18448 may choose to adopt such practices by including a statement to that effect in the General Regulations section of its tariff. An example of such a statement would be "The Company will comply with the Billing and Termination Rules as set forth in DPU 18448." In such cases, there is no need to file specific billing and collection practices as an appendix to the company's tariff.

CHAPTER 1.00: PROCEDURAL RULES

Section

- 1.01: Scope and Construction
- 1.02: General Provisions
- 1.03: Appearances; Intervention and Participation: Parties
- 1.04: Pleadings
- 1.05: Service
- 1.06: Hearings
- 1.07: Quorum; Tentative or Proposed Decisions
- 1.08: Recessing Hearing for Conference
- 1.09: Consolidation
- 1.10: Evidence; Subpoenas
- 1.11: Rulings, Briefs, Oral Argument and Post-hearing Procedure
- 1.12: Decisions
- 1.13: Appeal from Department Decisions
- 1.14: Miscellaneous
- 1.15: Appendices

1.01: Scope and Construction

(1) Procedure Governed. 220 CMR 1.00 shall govern practice and procedure, except with respect to the adoption of regulations pursuant to 220 CMR 2.00, before the Massachusetts Department of Public Utilities under applicable laws of the Commonwealth of Massachusetts and except where a statute provides otherwise.

(2) Transportation Oversight Division. 220 CMR 1.02(8)(c), 1.04(1)(d), 1.06(5), 1.06(6) and 1.06(7)(b) shall not apply to matters requiring action by the Transportation Oversight Division. The matters referred to in 220 CMR 1.02(8)(c), 1.04(1)(d), 1.06(5), 1.06(6) and 1.06(7)(b) shall be governed by 220 CMR 250.00.

(3) Definitions as used in 220 CMR 1.00, except as otherwise required by the context:

Adjudicatory Proceeding shall be as defined in M.G.L. c. 30A, § 1(1).

Commission means the Commissioners appointed under the provisions of M.G.L. c. 25, § 2, when acting as such.

Department means the Massachusetts Department of Public Utilities, its Commissioners and employees.

Presiding Officer means that person who is designated to conduct hearings pursuant to the provisions of 220 CMR 1.06(6)(a) or 220 CMR 250.03.

Transportation Oversight Division shall mean the Transportation Oversight Division of the Department.

(4) Waiver. Where good cause appears, not contrary to statute, the Commission and any presiding officer may permit deviation from 220 CMR 1.00.

1.02: General Provisions

(1) Office. The principal office of the Department is One South Station, 2nd Floor, Boston, Massachusetts. The office of the Department shall be open from 8:45 A.M. to 5:00 P.M. each weekday except Saturdays, Sundays and legal holidays.

(2) Date of Receipt.

(a) By the Department. All communications, including correspondence, motions and pleading, shall be deemed to be filed or received on the date on which they are received by the Department at its principal office.

1.02: continued

(B) By Parties and Other Persons. All communications, including correspondence, motions and pleading, shall be deemed to be filed or received on the date on which they are deposited in the United States mail, properly addressed and postage paid, or delivered in person to a party or other person.

(3) Identification. Communications should concern but one matter, should contain the name and address of the communicator and the appropriate certificate or permit number, if there be any pertaining to the subject of the communication. When the subject matter pertains to a pending docket, the title of the proceeding and the docket number should be given.

(4) Computation of Time. Computation of any period of time referred to in 220 CMR 1.00 shall begin with the first day following that on which the act which initiates such period of time occurs. The last day of the period so computed is to be included unless it is a day on which the office of the Department is closed, in which event the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays and legal holidays counted, is five days or less, the said Saturdays, Sundays and legal holidays shall be excluded from the computation; otherwise, such days shall be included in the computation.

(5) Extensions of Time. In the discretion of the Commission or the presiding officer, for good cause shown, any time limit prescribed or allowed by 220 CMR 1.00 may be extended. All requests for extensions shall be made by motion in accordance with 220 CMR 1.02(5), and shall be made before the expiration of the period originally prescribed or as previously extended. The Secretary of the Commission shall notify all parties of the Commission's action upon the motion.

(6) Signatures. Every application, notice, pleading, petition, complaint, motion, brief and memorandum shall be signed by the filing party or by one or more attorneys, in their individual names on behalf of the filing party.

(7) Appearances. An appearance shall be made in any proceeding by filing a written notice thereof and serving a copy on all persons who have theretofore appeared. (220 CMR 1.15(1)).

(8) Formal Requirements as to Pleading, Documents and Other Papers Filed in Proceedings.

(a) Copies. Except as may be otherwise required by the rules or regulations of the Department, or ordered or requested by the Department, at the time pleading, documents, or other papers are filed with the Department, there shall be furnished to the Department an original of such papers.

(b) Form. Except for the forms contained or referred to in 220 CMR 1.15, and such other forms provided by the Department, which shall be used where appropriate, pleading, documents or other papers filed in proceedings shall be printed or typewritten on paper cut or folded to either letter or legal size, eight inches to 8 1/2 inches wide by 10 1/2 inches to 14 inches long, with left-hand margin not less than 1 1/2 inches wide and other margins not less than one inch. The impression shall be on only one side of the paper, unless printed, and shall be double spaced, except that quotations in excess of a few lines shall be single spaced and indented. Mimeographed, multi-graphed, photoduplicated or the like copies will be accepted as typewritten, provided all copies are clear and permanently legible.

(c) Filing. All pleading documents or papers relating to matters requiring action by the Commission shall be filed with the Secretary of the Department, One South Station, 2nd Floor, Boston, Massachusetts 02110.

(9) Ex Parte Communications in Adjudicatory Proceedings.

(a) From the initial filing in an adjudicatory proceeding until the rendering of a final decision, a Commissioner, presiding officer, or staff member of the Department may not communicate with a party or interested person about any substantive issue of fact, law, or policy except upon reasonable notice and opportunity for all parties to participate.

(b) Communications not prohibited by 220 CMR 1.02(9)(a) include:

1. Communications concerning scheduling, administrative, and other procedural matters; and

1.02: continued

2. Communications between a party and assigned settlement intervention staff for the purpose of producing a settlement, or communications between a party and staff assigned to conduct alternative dispute resolution or mediation proceedings.

(c) If a person makes or attempts to make an ex parte communication prohibited by 220 CMR 1.02(9)(a), the Commissioner, presiding officer, or staff member shall advise the person that the communication is prohibited and shall immediately terminate the prohibited communication.

(d) If a Commissioner, presiding officer, or staff member violates the ex parte rule, he or she shall, no later than two business days after determining that the communication was prohibited, serve on each party and place in the docket file the following:

1. A written statement including the substance and circumstances surrounding the communication; the identity of each person who participated in the communication; the time, date, and duration of the communication; and whether, in his or her opinion, the receipt of the ex parte communication disqualifies him or her from further participation in the adjudicatory proceeding; and
2. Any written or electronic documentation of the communication.

The above documents to be placed in the docket file shall not be made a part of the evidentiary record.

(e) The Department may, upon the motion of any party or on its own motion, accept or require the submission of additional evidence of the substance of a communication prohibited by 220 CMR 1.02(9)(a).

(f) Upon receipt of a communication made or caused to be made by a party in violation of 220 CMR 1.02(9)(a), the Department may, to the extent consistent with the interests of justice, require the party to show cause why his or her claim or interest in the adjudicatory proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(g) Where a party has violated this rule, the Department or presiding officer may take such action as is deemed appropriate within the circumstances.

1.03: Appearances; Intervention and Participation; Parties

(1) Intervention.

(a) Any person who desires to participate in a proceeding shall file a written petition for leave to intervene or to participate in the proceeding.

(b) Form and Contents of Petition. The petition shall state the name and address of the petitioner. It shall describe the manner in which the petitioner is substantially and specifically affected by the proceeding. It shall state the contention of the petitioner, the relief sought and the statutory or other authority there for, and the nature of the evidence the petitioner will present if the petition is granted.

(c) Filing and Service of Petition. Unless otherwise provided in the notice of hearing, the petition must be filed at least seven days prior to the date for hearing. No petition may be filed or will be acted upon during a hearing unless permitted by the Commission or the presiding officer after opportunity for all parties to object thereto. The petition must be served as required under 220 CMR 1.05(1).

(d) Answers to Petitions. A party may file an answer to a petition no later than five days after the petition is filed.

(e) Action on Petitions. The Commission, or the presiding officer, shall rule on all such petitions and may grant a person leave to intervene as a party in the whole or any portion of a proceeding or may allow a person who is not a party to make limited appearance by making an oral or written statement of his position on the issue, or by such other participation as the Commission or the presiding officer may determine. Such grant may be conditioned on such terms as the Commission or presiding officer may direct. No grant of such leave to intervene or participate shall be deemed to constitute an expression by the Department that the person allowed to participate is a party in interest, who may be aggrieved by any final decision, order or ruling, unless the grant explicitly so states.

1.03: continued

- (2) Parties. As used in 220 CMR 1.00, "party" means:
- (a) the specifically named persons whose legal rights, duties or privileges are being determined in an adjudicatory proceeding before the Department;
 - (b) any other person who as a matter of constitutional right or by any provision of the Massachusetts General Laws is entitled to participate fully in such proceeding and who enters an appearance;
 - (c) any other person allowed by the Department to intervene as a party.

1.04: Pleadings

(1) Initial Pleading.

- (a) Definition. An initial pleading, as used herein, shall refer to any paper or document by which an adjudicatory proceeding may be commenced. Such papers or documents shall include but not be limited to applications, petitions, complaints, protests, and appeals from decisions of the Director of the Transportation Oversight Division.
- (b) Content. Every initial pleading shall be on the form provided by the Department, and if no form is provided, the pleading, as far as possible, shall contain the following:
- 1. A title which indicates either the nature of the proceedings or the parties involved therein.
 - 2. The complete name and address of the party filing the pleading.
 - 3. If the party filing the pleading is represented by counsel, the name and address of the attorney.
 - 4. The name and address of all other petitioners.
 - 5. A clear and concise statement of the facts upon which the pleading is maintained.
 - 6. In the case of appellate proceedings, a clear and concise statement of the appellant's objections to the decision or action from which the appeal was taken.
 - 7. A reference to the statute under which relief is sought.
 - 8. A prayer setting forth the relief sought.
 - 9. As part of the initial petition pursuant to M.G.L. c. 164, § 9; or pursuant to M.G.L. c. 159, §§ 19 and 20, the company shall file a copy of the proposed notice as set forth in 220 CMR 5.06 and a list of newspapers in which it proposes to publish such notice.

(c) Application for Permission to Establish Rates on Less than Statutory Notice. Application for permission to establish rates on less than statutory notice shall have attached thereto, as an exhibit, a copy of the proposed tariff or schedule. When the tariff is to meet the existing rate of a competing common carrier, the petition shall state the name, address, and the particular rate or rates of the competing carrier to be met and shall be signed, under oath, by the carrier filing the application. A contract carrier shall not be deemed a competing carrier in the consideration of such applications.

(d) Protest of a Tariff. Petitions addressed to the Department complaining of and seeking suspension on a tariff or objecting to a contract carrier contract shall be filed with the Department in triplicate at least ten days before the effective date of such tariff or contract and one copy of such petition shall simultaneously be served by the protestants upon the publishing company, freight forwarder or agent and, in case of contracts, on the contracting parties. In default of such filing and service no such application for suspension of rates or objection to contract shall be entertained. The particular tariff or contract protested shall be identified by its proper M.D.P.U. number or contract identification and attention directed to the items specifically objected to, together with the grounds in support of the protest.

(2) Answer. Except where a different period is specified, an answer shall be filed within 14 days after service of the document to which the answer is directed.

(3) Amendments to Pleadings. Leave to file amendments to any pleading will be allowed or denied as a matter of discretion. If amendment is made to an initial pleading, an answer to said amended pleading, if permitted, shall be filed within such time as may be directed by the Commission or the presiding officer.

1.04: continued

(4) Withdrawal of Pleadings.

(a) Prior to Commencement of Hearing. A party may withdraw an initial pleading filed with the Department at any time prior to the commencement of a hearing on such pleading. A notice of withdrawal of pleadings shall be served on the Department and each party in accordance with 220 CMR 1.05(1)

(b) After Commencement of Hearing. A party desiring to withdraw an initial pleading after the commencement of hearing on such pleading shall file a motion for withdrawal, in accordance with 220 CMR 1.04(5). If any person has an objection thereto, he shall within ten days after receipt of said motion, file a statement with the Department setting forth the reasons for his objection and serve a copy of same, in accordance with 220 CMR 1.05(1), on each person entitled thereto. Such an objecting person shall, if a party, have a hearing on the motion to withdraw if, at the time of filing, he so requests. In the absence of objections or a request for hearing, within 30 days after the filing thereof, the motion of withdrawal shall be deemed allowed, unless otherwise ordered.

(5) Motions.

(a) General. An application to the Department to take any action or to enter any order after initial pleading or after commencement of an investigation by the Department shall be by motion which, unless made during a hearing, shall be made in writing, shall state specifically the grounds therefor, and shall set forth the action or order sought. A copy of all motions made in writing, or reduced to writing at the request of the Commission, shall be served upon all persons entitled thereto in accordance with 220 CMR 1.05(1).

(b) Delay of Adjudicatory Proceeding. Except as otherwise directed by the presiding officer or the Commission, the filing of a motion, either prior to or during any adjudicatory proceeding, and any action thereon shall not delay the conduct of such proceeding.

(c) Motion Prior to Hearing. A motion shall be in writing and may be filed prior to hearing by any party or by a person whose petition filed pursuant to 220 CMR 1.03(1) is pending. Any party may file a written answer to such motion no later than five days after such filing.

(d) Motions During Hearing. With the exception of motions to withdraw pleadings filed pursuant to 220 CMR 1.04(4) and petitions filed pursuant to 220 CMR 1:03(1), upon the making of a motion in the course of a hearing, replies thereto and argument thereon shall be permitted within the time and in the manner directed by the presiding officer.

(e) Motion for Protection from Public Disclosure. Documents in the possession of the Department are presumed to be public records. To overcome this presumption and protect information from public disclosure, a party must file with the Department a written motion for a protective order. If no such motion is made at the time the record is filed with the Department, the Department may make the information available to the public without further notice.

The party moving for a protective order shall substantiate its motion, which shall be treated as a public record, with the following information:

1. the time period for which confidential treatment is desired;
2. the reason the record was provided to the Department, and the date of submittal;
3. a precise description of the information to be protected;
4. the reasons for the claim of confidentiality, including proof that an exemption to public disclosure applies;
5. proof of the harm of public disclosure;
6. the extent to which the record or its contents has been disclosed to other persons or to federal, state and local agencies, including the status of any requests for confidentiality; and
7. a certification to the best of the moving party's knowledge, information and belief, that the information is not customarily available in the public domain.

In conjunction with a motion for protection from public disclosure, one unredacted copy of the materials for which protection is sought must be filed directly with the Hearing Officer. The unredacted copy should be submitted in a sealed envelope, clearly marked with the words "CONFIDENTIAL" on the outside of the envelope as well as on each page of the materials. A redacted copy of the materials, marked "REDACTED," must also be filed for the public docket.

(1) Service.

(a) General Rule. Service of all papers relating to any proceeding, including complaints, orders, decisions, pleadings, motions, processes, notices, briefs, claims of appeal, and exhibits, shall be by personal delivery or by first-class mail.

(b) On Whom Served. All such papers shall be served by the person filing the same on every person who has theretofore entered an appearance in the proceeding. If a person appears after the paper has been filed, a copy of all papers previously filed shall be furnished to such person, if he so requests. Proof of service shall accompany all papers when filed. If service in accordance with this rule is deemed by any person to be too burdensome, application may be made to the Department or to the presiding officer for relief.

(c) Service by the Department. A copy of any paper served by the Department, showing the addressees to whom the paper was mailed, shall be placed in the Department's files and shall be prima facie evidence of service and the date thereof.

1.06: Hearings

(1) Grant of Hearing. Public hearing will be granted whenever required by statute, and otherwise as the Department may determine in specific cases.

(2) Calendar. The Secretary of the Department shall maintain a docket and a hearing calendar of all proceedings set for hearing. So far as practicable, hearings shall be heard in the order in which they have been listed on the Department's docket.

(3) Place. All hearings shall be held at Boston at the offices of the Department, unless by statute or vote of the Commission a different place is designated.

(4) Hearing List. When more than one hearing is scheduled for the same time and place, uncontested matters shall be heard before contested matters.

(5) Notice.

(a) Persons Notified. Except where the Department has issued an order of notice pursuant to 220 CMR 1.06(5)(d), the Department shall give written notice of a scheduled hearing in any pending matter to all parties, to persons required by statute to be notified, to others who have made written request for notice of hearing in a particular matter and to such other persons as deemed necessary or appropriate by the Department. In addition, the Department may give notice by newspaper publication or by such other means as it may deem advisable. In any proceeding pursuant to M.G.L. c. 164, § 94; M.G.L. c. 159, §§ 19, 20, except for carriers certified pursuant to M.G.L. c. 159, § 12B, and others upon a showing of good cause, the Company shall give notice by publication pursuant to 220 CMR 5.06.

(b) Contents of Notice. Such notice shall include, but need not be limited to, the time, date place and nature of the hearing. Notice of hearings relating to the issuance or amendment of certificates, permits, or licenses shall include the name of the municipality in which the applicant maintains his principal place of business, a brief description of the type of commodity involved (if applicable) and of the area of authority sought and the name and address of applicant's attorney, if his appearance has been filed.

(c) Length of Notice. Unless otherwise provided by statute, or unless the Department finds that a shorter period of notice is reasonable and consistent with the public interest, notice of a hearing shall be given at least 14 days prior thereto.

(d) Order of Notice. The Department may require any person filing an initial pleading to give notice of the hearing on such pleading by publication or other means or both, in which case such person shall receive an order of notice from the Department which shall be returned, with proof of compliance with said order, not later than the commencement of hearing on the petition. (220 CMR 1.15(2)).

(e) Continuances. For good cause shown, the Commission or the presiding officer may grant a continuance. All requests for continuances shall be made by a motion in accordance with 220 CMR 1.04(5).

1.06: continued

(f) Address. Unless notice to the contrary has been received by the Department, notices of hearing shall be sufficient if mailed or delivered to the following:

1. If the addressee is a holder of a certificate, permit or license, the address shown on the last application for the issuance or amendment thereof.
2. If the addressee has tariffs on file, to the address shown on any tariff in effect at the time of notice.

(6) Conduct of Hearings.

(a) Presiding Officer. The hearing shall be conducted by a presiding officer who shall be the Commission Chairman, a Commissioner designated by the Chairman or a hearing officer designated by the Commission. The presiding officer shall administer oaths and affirmations, issue subpoenas, and make all decisions regarding the admission or exclusion of evidence or any other procedural matters which may arise in the course of the hearing.

(b) Procedural Conference.

1. The presiding officer may direct the parties to attend a preliminary conference to discuss procedural matters relating to the proceeding at any time before the commencement of the evidentiary hearing. The preliminary conference may be a public hearing on the record if requested by a party or ordered by the presiding officer:

To the extent that it is deemed necessary and practicable, the presiding officer shall establish a detailed schedule for the proceeding, including, but not limited to, the dates for the filing of information requests and responses, objections to discovery questions and responses to those objections, evidentiary hearings, and filing testimony, stipulations, settlement proposals, and briefs. The presiding officer shall also address any other procedural matters that will aid in the orderly disposition of the case.

2. The presiding officer shall, through written memorandum to the parties or announcement on the record, announce any action taken at the procedural conference. Any schedule established by the presiding officer shall be binding on the parties unless later modified by the presiding officer after notice to all parties.

(c) Discovery.

1. Purpose. The purpose for discovery is to facilitate the hearing process by permitting the parties and the Department to gain access to all relevant information in an efficient and timely manner. Discovery is intended to reduce hearing time, narrow the scope of issues, protect the rights of the parties, and ensure that a complete and accurate record is compiled.

2. Rules Governing Discovery. Because the Department's investigations involve matters with a wide range of issues, levels of complexity and statutory deadlines, the presiding officer shall establish discovery procedures in each case which take into account the legitimate rights of the parties in the context of the case at issue. In establishing discovery procedures, the presiding officer must exercise his or her discretion to balance the interests of the parties and ensure that the information necessary to complete the record is produced without unproductive delays. In exercising this discretion, the presiding officer shall be guided by the principles and procedures underlying the Massachusetts Rules of Civil Procedure, Rule 26 et seq. These rules, however, shall be instructive, rather than controlling.

3. Discovery Schedules. Discovery requests may be made at any time after the commencement of an investigation, and parties are encouraged to comply voluntarily with any such requests for information before the formal hearing process begins. Where appropriate, the presiding officer shall establish a formal schedule, either at the procedural conference or at some time before the commencement of evidentiary hearings. The schedule may be expedited for good cause shown. In cases brought under M.G.L. c. 164, § 94G, discovery may be expedited and/or information responses to discovery requests of relevant materials may be made a matter of inquiry in a future proceeding under that statute.

1.06: continued

4. Motions to Compel Discovery. A party may move for an Order to compel compliance with its discovery request. Unless otherwise permitted by the presiding officer for good cause shown, such motion shall be made no later than seven days after the passing of the deadline for responding to the request. If the presiding officer finds that a party has failed to comply in a reasonable manner with a legitimate discovery request without good cause, he or she may, after issuance of an Order compelling discovery, order whatever sanctions are deemed to be appropriate, including, but not limited to, those listed in Rule 37 of the Massachusetts Rules of Civil Procedure. A party's failure to file a motion to compel discovery in a timely manner, absent a showing of good cause, may result in a waiver of its right to compel the response.

5. Amending Responses. A party is under a continuing duty to amend seasonably an early response if it obtains information that the response was incorrect or incomplete when made, or that the response, though correct when made, is no longer true or complete.

6. Depositions.

a. Depositions may be taken if agreed to by all parties or by Order of the presiding officer in the event of a dispute following a motion by the requesting party. The presiding officer may, in his or her discretion, impose reasonable conditions on the deposition process, including, but not limited to, placing restrictions on the scope of the depositions or on the use of the depositions in the proceeding. All depositions shall be transcribed at the expense of the deposing party or parties.

b. All motions for deposition should include the name and title of the person to be deposed, the issues which will be the subject of the deposition, and a statement of the manner in which the deposition will expedite the hearing process. The party to be deposed and parties in the proceeding shall be served with the motion for deposition and may file objections to or comments on the motion no later than seven days after service. The presiding officer shall grant a motion for deposition if it is determined that the taking of a deposition will be more efficient than other available discovery methods, and will not unduly burden the affected parties.

7. Entry upon Land for Inspection and Other Purposes.

a. Scope. Any party may serve on any entity subject to the Department's jurisdiction a request to permit entry upon or within designated land, buildings, or other property in the possession or control of such entity (or upon land and property wherever situated, belonging to some other entity in which any entity subject to the Department's jurisdiction owns an interest) upon whom the request is served for the purpose of inspection, observation, measurement, surveying, photographing, testing or sampling the property or any designated room, object, machine, storage facility, practice or operation therein or thereon.

b. Procedure. The request may be served without leave of the presiding officer but shall be filed with the Department. The request shall describe the property to be inspected and shall specify a reasonable time at which to make the inspection and perform the related acts. Such request shall be served no later than ten days before the date of the proposed inspection. If the entity served objects to such inspection it shall file a written objection with the presiding officer stating therein its basis for objecting, no later than five days after the service of the request. Upon notice of such objection, the presiding officer shall at his or her first opportunity convene a hearing and shall order such inspection to proceed absent a showing of good cause by the entity.

(d) Rulings.

1. Presiding Officer. The presiding officer shall make all rulings during the course of the hearings when requested to do so by a party, although he or she may, at his or her discretion, refer any matter to the full Commission. The presiding officer may require, at his or her discretion, written memoranda on any issue or permit oral argument. The presiding officer may rule at the time of the request or take any matter under advisement. The presiding officer shall make all rulings promptly after submission, generally no later than the next hearing date.

1.06: continued

2. Effect of Rulings and Decision by Presiding Officer. Rulings and decisions of the presiding officer shall remain in full force and effect unless and until set aside or modified by the Commission. Any ruling or other decision of the presiding officer may be appealed to the full Commission.

3. Appeals to the Commission. If a party wishes to appeal a ruling or decision of the presiding officer, the party should immediately notify the presiding officer, on the record if possible. The presiding officer shall prescribe a reasonable time period for the submittal of the appeal and any response to be filed by other parties. The appeal must be filed in writing with supporting documentation, and served on all parties to the proceeding.

4. Offers of Proof. Any offer of proof made in connection with an objection taken to a ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which the party contends would be adduced by such testimony; and if the excluded evidence is in documentary or written form, or refers to documents or records, a copy of such evidence shall be marked for identification and shall constitute an offer of proof.

(e) Motions to Dismiss and for Summary Judgment. A party may move at any time after the submission of an initial filing for dismissal or summary judgment as to all issues or any issue in the case. The motion shall be filed in writing and served on all parties. A motion for summary judgment shall set forth in detail such supporting facts as would be admissible in evidence. The presiding officer shall afford other parties a reasonable time to respond in writing, and may, in his or her discretion, permit oral argument on the motion.

(f) Order of Presentation. In any hearing held upon the Department's own motion or upon petition, the person being investigated or the petitioner, as the case may be, shall open and close. In hearings on complaints, the complainant shall open and close. Where there is more than one person being investigated or more than one petitioner or complainant or where a hearing is being held on the Department's own motion and on complaint or petition, the order of presentation shall be in the discretion of the presiding officer. After all the evidence and testimony of the person opening has been received, the evidence and testimony of all other parties or others who have been allowed to participate in the hearing shall be received in the order determined by the presiding officer. All witnesses shall be subject to cross-examination by the Commissioners, the presiding officer, counsel for the Department, counsel for other parties, and counsel for any other person as permitted by the presiding officer. A reasonable amount of time for the preparation of cross-examination may be afforded.

(g) Conduct of Persons Present. All parties, counsel, witnesses, and other persons present at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in the courts of this Commonwealth. Where such decorum is not observed, the presiding officer may take such action as he deems appropriate.

(h) Additional Evidence. At any stage of the hearing the presiding officer may call for further evidence upon any issue, and require such evidence to be presented by the party or parties concerned or by the staff counsel, either at that hearing or adjournments thereof. At the hearing, the presiding officer may authorize any party to file specific documentary evidence as a part of the record within a specified time.

(7) Transcripts.

(a) Transcript and Record. At the request of any party, made in writing at least one day before the hearing date, or of its own accord, the Department shall provide that all proceedings in a pending case be officially recorded by a reporter appointed for that purpose. The Department shall require any party requesting a copy of the transcript to pay the reasonable cost of preparing said copy before the Department makes said copy available to the party.

(b) Transcript Corrections. Corrections in the official transcript may be made only to conform to the evidence presented at the hearing. Transcript corrections agreed to by opposing attorneys, may be incorporated into the record, if and when approved by the presiding officer, at any time during the hearing, or after the close of evidence, but not more than ten days from the date of receipt of the transcript. The presiding officer may call for the submission of proposed corrections and may make dispositions thereof at appropriate times during the course of the proceedings.

1.07: Quorum; Tentative or Proposed Decisions

(1) Quorum. At least two Commissioners shall participate in any action of the Commission. All decisions and rulings of the Commission shall be by a vote of a majority of the Commission.

(2) Tentative or Proposed Decisions.

(a) In the event that a majority of the Commission have neither heard nor read the evidence and their decision is adverse to any party other than the Department, then if any party in advance of hearing so requests in writing, such decision shall be made only after a tentative or proposed decision is delivered or mailed to each party.

(b) Such tentative or proposed decision shall contain a statement of reasons and a determination of each issue of fact or law necessary to such decision.

(c) Upon the proper filing and service of objections by a person adversely affected by such decision no later than ten days after receipt of the same, the Commission shall allow either oral or written arguments to be presented to a majority of the Commission, the choice to be in the discretion of the Commission.

1.08: Recessing Hearing for Conference

Recessing Hearing for Conference. In any proceeding the presiding officer may in his discretion call all parties together for a conference prior to the taking of testimony, or may recess the hearing for such conference. The presiding officer shall state on the record the results of such conference.

1.09: Consolidation

Consolidation. The Department upon its own motion, or upon motion by a party or other person joined in the proceeding, may order proceedings involving a common question of law or fact to be consolidated for hearing on any or all of the matters in issue in such proceedings.

1.10: Evidence; Subpoenas

(1) Evidence. The Department shall follow the rules of evidence observed by courts when practicable and shall observe the rules of privilege recognized by law, except as otherwise provided by any other law. There shall be excluded such evidence as is unduly repetitious or cumulative or such evidence as is not of the kind on which reasonable persons are accustomed to rely in the conduct of serious affairs. All unsworn statements appearing in the record shall not be considered as evidence on which a decision may be based.

(2) Official Notice. Official notice may be taken of such matters as might be judicially noticed by the courts of the United States or of this Commonwealth and in addition, the Department may take notice of general, technical, or scientific facts within its specialized knowledge; provided, that the Commission shall notify all parties of the material so noticed, and provided further, that any party on timely request be afforded an opportunity to contest the matters so noticed.

(3) Documentary Evidence: Incorporation by Reference. Any matter contained in any records, investigations, reports and documents in the possession of the Department of which a party or the Department desires to avail itself as evidence in making a decision, shall be offered and made a part of the record in the proceeding. Such records and other documents need not be produced or marked for identification, but may be offered in evidence by specifying the report, document or other file containing the matter so offered.

(4) Prepared Testimony; Discovery Responses. Unless otherwise directed by the Hearing Officer, prepared written testimony and discovery responses must be authenticated by an affidavit of the witness at the time of filing. The presiding officer may allow prepared direct testimony or discovery responses of any witness to be offered as an exhibit and may omit oral presentation of the testimony. Copies of such proposed exhibit shall be served upon all persons who have filed an appearance and on staff counsel of record, at least seven days in advance of the session of the hearing at which such exhibit is to be offered.

1.10: continued

(5) Copies of Exhibits to Parties and Department: Time of Service.

(a) Direct Evidence. Except as otherwise provided in 220 CMR 1.00, when exhibits of a documentary character are to be offered in evidence, the person proposing to offer the same, in addition to the service required by 220 CMR 1.02(8)(a) and 1.05, shall serve nine copies of such exhibits on the Department, at least seven days prior to the hearing at which such exhibits are to be offered.

(b) Rebuttal Exhibits. All exhibits in rebuttal may be served at the time they are introduced at the hearing.

(6) Copies of Tariffs. In any hearing held pursuant to an investigation of the proposed rates, the proponent of the rates shall introduce as an exhibit a copy of the proposed rates and of those being canceled.

(7) Partnership Witnesses. In all proceedings held under M.G.L. c. 159A, § 7, or M.G.L. c. 159B, § 11, relating to acquisition of a certificate or permit or the capital stock of a carrier by a partnership, at least one partner, who shall be familiar with the financial circumstances, training and experience of all other partners, shall appear as witness.

(8) Stipulations. Two or more parties to any proceeding may file with the Department and serve on all parties a written stipulation of specific facts or issues. The stipulation shall be supported by whatever evidence the parties deem relevant to assist the Department in determining whether the stipulation should be accepted. Other parties shall file any response to the stipulation no later than five days after service, or within such other time as may be ordered by the presiding officer. The Department may request additional information in support of the stipulation. If the Department approves the stipulation, it shall be incorporated into any final Department Order. The Department shall rule on the acceptability of the stipulation in a timely manner so as to minimize the administrative burden of the parties.

(9) Subpoenas. The Department and all other parties shall have authority in accordance with M.G.L. c. 30A, § 12 and M.G.L. c. 25, § 5A to issue subpoenas requiring the attendance and testimony of witnesses and the production of any documents in question in the proceeding. (220 CMR 1.15(3)).

(10) Production and View of Objects. A party may file a motion for the production or view of any object which relates to the subject matter of any proceeding then pending before the Department. Said motion shall be filed in accordance with 220 CMR 1.01(5) and shall be granted in the discretion of the presiding officer where justice requires.

1.11: Rulings, Briefs, Oral Argument and Post-hearing Procedure

(1) Request for Rulings. Within the time designated for the filing of briefs pursuant to 220 CMR 1.11(3), any party may file requests for rulings in accordance with the provisions of M.G.L. c. 25, § 5.

(2) Oral Argument, When Made. When, in the opinion of the presiding officer, time permits and the nature of the proceedings, the complexity or importance of the issues of fact or law involved, and the motion or at the request of a party or staff counsel at or before the close of the taking of testimony, allow and fix a time for the presentation of oral argument, imposing such limits of time on the argument as deemed appropriate in the proceeding. Such argument shall be transcribed and bound with the transcript of testimony.

(3) Briefs. Briefs may be filed by a party either before or during the course of a hearing, or within such time thereafter as the presiding officer shall designate. Failure to file a brief shall in no way prejudice the rights of any party. The order of filing briefs after the hearing, including reply briefs, will be designated by the presiding officer.

1.11: continued

(4) Contents and Scope of Brief; Proposed Findings and Order. Briefs may contain:

- (a) A concise statement of the case,
- (b) An abstract of the evidence relied upon by the party filing, with reference to the pages of record or exhibits where the evidence appears,
- (c) Argument and authorities, and
- (d) Proposed findings and conclusions and, if desired, a proposed form of order or rule.

(5) Briefs, Form of. Exhibits should not be reproduced in the brief, but may, if desired, be reproduced in an appendix to the brief. Any analyses of exhibits relied on should be included in the part of the brief containing the abstract of evidence under the subjects to which they pertain. Every brief of more than 20 pages shall contain a subject index, with page references, and a list of all cases cited, alphabetically arranged, with reference to the pages where the citations appear. All briefs shall be as concise as possible and shall in all other respects conform to the requirements of 220 CMR 1.02(9).

(6) Briefs, Filing and Service. Briefs not filed and served on or before the dates fixed therefor shall not be accepted for filing. All briefs shall be accompanied by a certificate showing service upon all parties and persons who have been allowed to cross-examine and present evidence, and except where filing of a different number is permitted or directed by the presiding officer, nine copies of each brief shall be served on the Department in addition to the brief served on it pursuant to 220 CMR 1.02(8)(a) and 1.05. Requests for an extension of time in which to file briefs shall conform to the requirements of 220 CMR 1.02(5) and shall be filed before the time fixed for filing such briefs.

(7) Filing of Documents Subsequent to Hearing. The Department may, for good cause shown, allow the parties to file evidentiary documents of any kind, or exhibits, at a time subsequent to the completion of hearing, such time to be determined by the Commission. If a request for such subsequent filing is granted, the requesting party shall on or before the date set for filing, send copies of all documents or exhibits which are the subject of the request to all parties and persons who have filed appearances. If such requirement for copies is impracticable, the Department may suspend the provision; in such cases, the Department shall allow reasonable inspection of the original by all parties.

(8) Reopening Hearings. No person may present additional evidence after having rested nor may any hearing be reopened after having been closed, except upon motion and showing of good cause. Such motions shall be filed in accordance with the provisions of 220 CMR 1.04(5). The Department shall notify all parties of its action upon the motion. Notwithstanding the above, the Department may, at any time prior to the rendering of a decision, reopen the hearing on its own motion. In case of such reopening on motion of the Department, the parties shall be notified and the hearing shall not be convened less than five days after the sending of such notice.

(9) Motion for Recalculation. No later than 20 days after service of a final Department Order, a party may file a motion for recalculation based on an alleged inadvertent error in a calculation contained in a final Department Order. The motion shall set forth in detail the proposed adjustments and the basis for the changes. The Department may, in its discretion, convene a conference or hearing to discuss the motion. The Department must act upon a motion for recalculation within 60 days of receipt of such motion unless it notifies the parties in writing that a longer period of time will be required and specifies the additional length of time necessary to consider the motion.

(10) Motion for Reconsideration. No later than 20 days after service of a final Department Order, a party may file a motion for reconsideration. Parties to the proceeding shall be afforded a reasonable opportunity to respond to a motion for reconsideration.

(11) Extension of Judicial Appeal Period. In accordance with M.G.L. c. 25, § 5, judicial appeals from final Department Orders must be filed within 20 days after service of the Order. Upon motion to the Department within the 20-day period, a party may request an extension of the appeal period. Reasonable extensions shall be granted upon a showing of good cause.

All decisions of the Department shall be in writing and shall be accompanied by a statement of reasons for the decision. A copy of the decision and such statement of reasons shall be served on all parties pursuant to 220 CMR 1.05(1).

1.13: Appeal from Department Decisions

The Department shall notify all parties of their right to appeal a final decision of the Department pursuant to M.G.L. c. 25, § 5, and of the time limits on their rights to appeal.

1.14: Miscellaneous

Fees. Fees shall be paid in accordance with M.G.L. c. 25, § 10B.

1.15: Appendices

(1) Appendix 1 -- Appearance of Counsel.

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

D.P.U. No. _____

Heading

APPEARANCE OF COUNSEL

In the above-entitled proceeding, I hereby appear for and on behalf of

Signature of Attorney

-

Address

Telephone Number

Date

(2) Appendix 2 -- Order of Notice

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Boston _____

The Commission of the Department of Public Utilities will hold a public hearing at its hearing room, One South Station, Boston, on _____ the _____ day of _____ at _____ o'clock in the _____ noon.

And the petitioner is required to give notice of said hearing by publication hereof _____ Prior to said date in the _____ to serve a copy hereof at least _____ days prior to said date on _____

_____ and to make return of service and publication at the time of hearing.

By order of the Department,

Secretary

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

I hereby certify that publication and service of the within order of notice of hearing has been made and given as therein directed.

Subscribed and sworn to before me

This _____ day of _____, 20

Justice of the Peace
Notary Public

1:15 : continued

(3) Appendix 3 -- Summons

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

To

YOU ARE HEREBY REQUIRED, in the name of the Commonwealth of Massachusetts, to appear at a hearing before the Commission of the Department of Public Utilities to be held at _____ on the _____ day of, _____ at _____ o'clock in the _____ noon, and from day to day thereafter, until the aforesaid hearing is concluded by said Commission to give evidence of what you know relating to _____

_____ then and there to be heard on petition (application of _____
_____ and you are required to bring with you _____

HEREOF FAIL NOT, as you will answer your default under the pains and penalties in the law in that behalf made and provided.

DATE _____ the _____ day of _____
_____ A.D., 20 _____

Notary Public

1:15 : continued

(4) Appendix 4 -- Certificate of Service

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

D.P.U. No. _____

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 220 CMR 1.05(1) (Department's Rules of Practice and Procedure).

Dated at _____ this _____ day of _____, 20

(Signature)

Of Counsel for



NEW JERSEY BOARD OF PUBLIC UTILITIES

TWO GATEWAY CENTER, 9TH FLOOR

NEWARK, NEW JERSEY 07102

**TO ALL PARTIES INTERESTED IN PROVIDING COMPETITIVE LOCAL EXCHANGE
CARRIER SERVICES IN THE STATE OF NEW JERSEY**

The following general guidelines are provided for informational purposes and are not intended to be all-inclusive of the requirements for every specific petition. These guidelines shall not be considered legal advice, which advice should be sought from a qualified attorney. Regardless of the contents of these guidelines, the Petitioner is solely responsible for meeting all applicable requirements of the Board, including those requirements that may not be included herein.

GENERAL GUIDELINES FOR FILINGS

Petitions, Initial Tariffs and Supplemental Filings

1. All petitions, tariff filings and supplemental submissions, including responses to Staff data requests, must be filed with the Secretary of the Board. A copy should be sent to the Division of Rate Counsel.
2. When filed by an attorney (including an attorney or general counsel employed in-house by the petitioner), the attorney must be a licensed New Jersey attorney, or the non-New Jersey attorney representing the petitioner must be admitted pro hac vice in New Jersey. See N.J.A.C. 14:1-3.2; R. 1:21-1 et seq. When not filed by an attorney, the petition should include evidence that the individual filing the petition has authority to so act on behalf of the petitioner, pursuant to N.J.A.C. 14:1-3.1.

3. All pleadings initiating a proceeding or otherwise seeking affirmative relief (including petitions and supplemental filings and responses to data requests) must be verified pursuant to N.J.A.C. 14:1-4.6.
4. A filing fee in the amount of \$25.00 must be paid pursuant to N.J.S.A. 48:2-56 and N.J.A.C. 14:1-2.1.
5. Unless otherwise required by the Board, Petitioner shall file an original and ten (10) confirmed copies pursuant to N.J.A.C. 14:1-4.2.
6. A Petition for Authority must include the following:
 - a. A Certificate of Incorporation from the state of origin. A petition may also include a Certificate of Good Standing from the state of incorporation, but it is not necessary;
 - b. a current Certificate of Authority to Do Business as a Foreign Corporation in New Jersey;
 - c. information sufficient to support an assertion that the applicant has financial qualifications. Such information may include SEC filings, annual reports, information about financings, etc.;
 - d. information sufficient to support an assertion that the applicant has managerial qualifications;
 - e. information sufficient to support an assertion that the applicant has technical qualifications. The following information should be included:
 - i. a full description of the technical aspects of the applicant's business plan;
 - ii. the location and description of the petitioner's facilities, if any, which the applicant will use to service New Jersey customers;
 - iii. a description of any plans to build, locate, acquire or expand facilities in New Jersey; and,
 - iv. any other information relevant to the pleading.
 - f. a complete description of the applicant's business plan in New Jersey;
 - g. the vitae of the applicant's key personnel;
 - h. a list of other jurisdictions where authority exists or is pending, including disclosure of whether authority has been denied or revoked in any jurisdiction;
 - i. a statement as to whether there are or have been civil or criminal proceedings against the applicant in any jurisdiction (including settlements of any such proceeding regardless of whether liability is or is not admitted);
 - j. information on whether the company has entered into, or plans to enter into an interconnection agreement with an Incumbent Local Exchange carrier;
 - k. information on the number of full time employees the petitioner has on the payroll to provide service to customers in New Jersey;
 - l. information on whether the Company maintains a toll free number in New Jersey;
 - m. the completed Competitive Exchange Carrier Questionnaire located on the Board's Web site, www.nj.gov/bpu under either the Division of Telecommunications or Audits.
7. Requests for waiver of Board rules:

- a. Each waiver request must be expressly stated, not implied.
- b. All statutory and regulatory requirements must be complied with, and such compliance must be recited in the waiver request.
- c. To keep books and records outside of New Jersey, the petition must reference and comply with N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-5.15; these requirements include the following:
 - i. a complete description of the specific books, records, accounts, documents, and other writings proposed to be kept outside of New Jersey [N.J.A.C. 14:1-5.15(a)1];
 - ii. the exact location where the books and records will be kept [N.J.A.C. 14:1-5.15(a)2];
 - iii. what remaining records, if any, will be kept in New Jersey [N.J.A.C. 14:1-5.15(a)3];
 - iv. the reason for proposing to keep the books and records at a location outside the State [N.J.A.C. 14:1-5.15(a)4];
 - v. the costs to the petitioner of maintaining the books and records outside the State as compared to the cost of keeping books and records in New Jersey [N.J.A.C. 14:1-5.15(a)6 and 7];
 - vi. whether the books and records kept outside the state will be, on notice in writing from the Board, produced at such time and place within this State as the Board may designate [N.J.A.C. 14:1-5.15(a)8]; and,
 - vii. whether the petitioner will pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination, if the Board grants said permission [N.J.A.C. 14:1-5.15(a)9].
- d. To maintain financial records according to GAAP rather than USOA, the petition must reference and comply with N.J.A.C. 14:1-4.3 and 14:10-1A.16, including the following:
 - i. the petition should state whether its records are maintained according to the USOA pursuant to 47 C.F.R. §32.1 et seq. [N.J.A.C. 14:10-1A.16];
 - ii. alternatively, if a waiver is requested, the petition should state that the FCC does not require that financial records comply with the USOA, or that the petitioner has received a waiver from such FCC requirements. A copy of the waiver should be provided.
- e. Good cause for any waiver must be provided to receive Board approval; i.e., the applicant must comply with N.J.A.C. 14:1-1.2(b).

8. Confidentiality of Documents:

- a. All requests for confidentiality of submitted information shall be in accordance with N.J.A.C. 14:1-12 et seq. and in compliance with the Open Public Record Act N.J.S.A. 47:1A-1 et seq.
- b. All requests for confidentiality of documents must be expressly requested. Mere stamps on a document are not sufficient to warrant confidential treatment. Any submission of documents without an express request for confidential treatment is at the sole risk of the petitioner.
- c. Grants of confidentiality are generally limited to sensitive financial, marketing or technical information.

9. Initial tariff filings must comply with the following:
 - a. N.J.A.C. 14:1-5.11, including, but not limited to, the following:
 - i. N.J.A.C. 14:1-4 et seq. and N.J.A.C. 14:10-5.1 through 5.6, to the extent applicable;
 - ii. four (4) copies of the proposed tariff; and
 - iii. pro forma income statements for each of the first two years of operations and actual or estimated balance sheets as of the beginning and end of each year of said two-year period [N.J.A.C. 14:1-5.11(a)5].
 - b. the Board's customer-related sections of Title 48 of the New Jersey Statutes and the New Jersey Administrative Code.

10. Upon approval from the Board, the Petitioner is responsible for the following:

- a. Filing of an Annual Report and a Statement of Gross Intrastate Revenues from Operations Form to the Board.

On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.

Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

- b. Payment of Annual Assessment liability to the New Jersey Board of Public Utilities ("Board") and to the New Jersey Division of Rate Counsel.

In accordance with N.J.S.A. 48:2-59 and 48:2-60, and N.J.S.A. 52:27EE-52 the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively. These rules state that there is a provision of a minimum assessment of \$500.00.

COMPETITIVE EXCHANGE CARRIER
QUESTIONNAIRE

Legal Company Name _____

D/B/A _____

Address _____

Telephone _____ Fax _____

Customer Contact (service orders/complaints):

Name _____

Address _____

Telephone _____

Regulatory Contact:

Name _____

Title _____

Address _____

Telephone _____

Facsimile _____

E-Mail _____

Web Address _____

The Board is not obligated to review and approve requests in timeframes, which reflect or take into account the contractual or other obligations of a petitioner to third parties. Accordingly, petitioners enter into all obligations to third parties at their own risk.

BACKGROUND INFORMATION

Corporate Structure: Sole Proprietorship () Partnership ()
Limited Liability Partnership () Limited Liability Corporation ()
Subchapter S Corporation () Corporation ()

Principal Owner(s):	Name	Title - Percent Owner
	_____	_____
	_____	_____
	_____	_____

Principal Operator(s):	Name	Title - Telephone Number
	_____	_____
	_____	_____
	_____	_____

State of Organization, if applicable: _____

Date business was started: _____

List address(es) and telephone number(s) of all business offices in New Jersey:

_____	_____
_____	_____
_____	_____

List name, address and type of businesses operated, owned and/or controlled by any partner or major shareholder.

_____	_____
_____	_____
_____	_____

CUSTOMER INFORMATION

<u>Type</u>	<u>Number</u>	<u>Lines</u>	<u>Current year</u> Revenue <u>(Actual)</u>	<u>Future Years</u> Revenue <u>(Projection)</u>
Residential (1-4 lines)	_____	_____	_____	_____
Business				
Small (1-10 lines)	_____	_____	_____	_____
Medium (11-49 lines)	_____	_____	_____	_____
Large (over 49 lines)	_____	_____	_____	_____

Description of services offered and monthly rate for each respective service:

Do you have an executed interconnection and/or resale agreement with Bell Atlantic - New Jersey, United Telephone and/or Warwick Valley Telephone Company?

Yes or No

If yes, please specify type of agreement, date executed, and date of BPU approval and docket number.

If no, please briefly explain status of negotiations and major concerns raised during negotiations.

Is your company, its subsidiaries or affiliates, currently involved in any disciplinary proceeding with any regulatory or legal authority in any federal or state jurisdiction?

Yes or No. If yes, explain in detail.

Provide a complete list and status of all complaints filed against the company, directly and indirectly, for the preceding twelve months. Specify which state and arena the complaint was filed. ***Please note it is the company's responsibility to verify with each jurisdiction where it is currently operating and attest to this Board regarding the number of outstanding complaints.***

Provide a complete list of all jurisdictions in which the company currently operates and the type of authority granted.

Provide a statement attesting that your customer marketing procedures are in accordance with all Federal Communications Commission rules and regulations regarding subscriber carrier selection and all New Jersey laws and rules regarding changes in telecommunications service providers.

Briefly describe your target customer base for the following:

Current _____

In one year _____

In five years _____

Describe the nature and location of telephone network facilities currently owned or controlled in New Jersey by:

a) the operating company

b) the parent and/or subsidiary (specify)

c) any other entity (specify)

Describe the nature and location of telephone network facilities currently under construction in New Jersey.

Provide a list of Municipalities where service will be provided broken down by residential and business categories.

Explain, in general, the company's plans for the next year and five years, respectively.

Any other comments?

VERIFICATION

_____ (Officer of the Company), being duly sworn, deposes and states that he/she is _____ (Office) of _____ (Company Name), that he/she is authorized to make this Verification on behalf of _____ (Company Name); that he /she has read _____ (Company Name) responses to this questionnaire to be filed with the New Jersey Board of Public Utilities, and knows the contents thereof; and that the same are true and correct to the best of his/her knowledge, information and belief.

Subscribed and sworn to before me this ____ day of _____.
My commission expires: _____.

- [Justia.com](#)
- [Lawyer Directory](#)
- [Law Blogs](#)
- [US State CaseLaw](#)
- [more ▼](#)
- [Sign In](#)



[Justia](#) > [Law](#) > [New Jersey Law](#) > [2006 New Jersey Code](#) > [TITLE 48 PUBLIC UTILITIES](#) > 48:2-13 Powers of board; public utility defined; exemptions from jurisdiction
[Share](#) |

2006 New Jersey Code - 48:2-13 Powers of board; public utility defined; exemptions from jurisdiction

 New Jersey 2006 Code All US State Codes

48:2-13? Powers of board; public utility defined; exemptions from jurisdiction

48:2-13.? a.? The board shall have general supervision and regulation of and jurisdiction and control over all public utilities as defined in this section and their property, property rights, equipment, facilities and franchises so far as may be necessary for the purpose of carrying out the provisions of this Title.

The term "public utility" shall include every individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, their successors, heirs or assigns, that now or hereafter may own, operate, manage or control within this State any railroad, street railway, traction railway, autobus, charter bus operation, special bus operation, canal, express, subway, pipeline, gas, electricity distribution, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment? for public use, under privileges granted or hereafter to be granted by this State or by any political subdivision thereof.

b. Nothing contained in this Title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over any vehicles engaged in ridesharing arrangements with a maximum carrying capacity of not more than 15 passengers, including the driver, where the transportation of passengers is incidental to the purpose of the driver or any vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini; hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations, including local airports, or bus employed solely for transporting school children and teachers,

to and from school, or any autobus with a carrying capacity of not more than 10 passengers now or hereafter operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route.

c. Except as provided in section 7 of P.L.1995, c.101 (C.58:26-25), the board shall have no regulatory authority over the parties to a contract negotiated between a public entity and a private firm pursuant to P.L.1995, c.101 (C.58:26-19 et al.) in connection with the performance of their respective obligations thereunder. Nothing contained in this title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over, any public-private contract for the provision of water supply services established pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

d. Unless otherwise specifically provided pursuant to P.L.1999, c.23 (C.48:3-49 et al.), all services necessary for the transmission and distribution of electricity and gas, including but not limited to safety, reliability, metering, meter reading and billing, shall remain the jurisdiction of the Board of Public Utilities.? The board shall also maintain the necessary jurisdiction with regard to the production of electricity and gas to assure the reliability of electricity and gas supply to retail customers in the State as prescribed by the board or any other federal or multi-jurisdictional agency responsible for reliability and capacity in the State.

e. Notwithstanding the provisions of subsection a. of this section, the board shall have the authority to classify as regulated the sale of any thermal energy service by a cogenerator or district heating system, for the purpose of providing heating or cooling to a residential dwelling if, after notice and hearing, it determines that the customer does not have sufficient space on its property to install an alternative source of equivalent thermal energy, there is no contract governing the provision of thermal energy service for the relevant period of time, and that sufficient competition is no longer present, based upon consideration of such factors as: ease of market entry; presence of other competitors; and the availability of like or substitute services in the relevant geographic area.? Upon such a classification, the board may determine such rates for the thermal energy service for the purpose of providing heating or cooling to a residential dwelling as it finds to be consistent with the prevailing cost of alternative sources of thermal energy in similar situations.? The board, however, shall continue to monitor the thermal energy service to such residential dwellings and, whenever the board finds that the thermal energy service has again become sufficiently competitive pursuant to the criteria listed above, the board shall cease to regulate the sale or production of the service.? The board shall not have the authority to regulate the sale or production of steam or any other form of thermal energy, including hot and chilled water, to non-residential customers.

f. Nothing contained in this Title shall extend the powers of the board to include supervision and regulation of, or jurisdiction and control over, an entity engaged in the provision or use of sewage effluent for the purpose of providing a cooling medium to an end user or end users on a single site, which provision results in the conservation of potable water which would otherwise have been used for such purposes.

g. Except as provided herein, the board shall have no regulatory authority over the parties to a contract entered into between the governing body of a city of the first class and a duly incorporated nonprofit association in connection with the performance of their respective obligations thereunder when the governing body of a city of the first class shall determine by ordinance that it is in the public interest to contract with that duly incorporated nonprofit association for the provision of water supply services as

defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or for the provision of wastewater treatment services as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater treatment system as defined in subsection (19) of section 15 of P.L.1971, c.198 (C.40A:11-15), or any component part or parts thereof, including a water filtration system as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), upon approval of? the contract pursuant to the provisions of section 6 of P.L.2002, c.47 (C.58:28-7).

Notwithstanding any other provision of P.L.2002, c.47 whenever the governing body of a city of the first class enters into a contract with a duly incorporated nonprofit association for the provision of water supply services as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), or the designing, financing, construction, operation, or maintenance, or any combination thereof, of a water supply facility as defined in subsection (16) of section 15 of P.L.1971, c.198 (C.40A:11-15), and that governing body operates water supply facilities as authorized pursuant to the provisions of N.J.S.40A:31-4, which supply water to customers within another local unit, the nonprofit association or governing body shall be subject to the jurisdiction, rate regulation and control of the Board of Public Utilities as provided in N.J.S.40A:31-23, to the extent the nonprofit association or governing body supplies water to customers within that other local unit.

Amended 1946, c.219; 1947, c.162; 1952, c.251, s.1; 1962, c.198, s.9; 1970, c.40, s.4; 1971, c.16, s.1; 1973, c.158, s.1; 1973, c.272, s.1; 1981, c.413, s.10; 1995, c.101, s.10; 1999, c.23, s.52; 2002, c.47, s.10.

?

48:2-13.1.? Rural, electric cooperatives;? powers of board

??? Notwithstanding the provisions of any other law, rule or regulation to the contrary, with respect to a rural, electric cooperative which is exclusively owned and controlled by the consumers it serves, the Board of Public Utilities shall not exercise any jurisdiction or control over the rates, charges or operation of the cooperative nor shall the approval of the board be required to? authorize or validate any mortgage or encumbrance of real property of or the? issuance or execution of any evidence of indebtedness by the cooperative, except that the board shall retain its jurisdiction to determine disputes concerning the territory served or to be served by an electric cooperative.

???? L.1983, c. 78, s. 1, eff. Feb. 24, 1983.

?

48:2-13.2? Limited jurisdiction of Board of Public Utilities over certain nonpublicly-owned, nonprofit water companies

1.? The provisions of any law, rule, regulation or order to the contrary notwithstanding, with respect to a nonpublicly-owned, nonprofit water company which is exclusively owned and controlled by the consumers it serves, and provided that a majority of the entire membership of the association which controls the water company approves, the Board of Public Utilities shall not exercise any jurisdiction or control over the rates, charges or operations of the company; and the approval of the board shall not be required to authorize or validate any mortgage or encumbrance of real property, or the issuance or execution of any evidence of indebtedness by the company, except that the board shall retain its jurisdiction to determine disputes concerning the territory served or to be served by the company.

L.1997,c.203.

Disclaimer: These codes may not be the most recent version. [New Jersey](#) may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

Connect with Justia

DDM 000454



Follow @Justiacom on Twitter USPTO upholds TiVo's DVR patents in EchoStar lawsuit - Electronista <http://go.justia.com/teumv> Unclear if patent covers TiVo as a verb :-)
[10 hours ago](#) on [twitter](#)

[Find a Lawyer](#)

Legal Issue or Lawyer Name	City, State	<input type="button" value="Search"/>
----------------------------	-------------	---------------------------------------

Lawyers

[Browse Lawyers](#)

[Lawyers - Get Listed Now!](#)

Get a free full directory profile listing

© 2004-2010 [Justia](#) :: [Company](#) :: [Terms of Service](#) :: [Privacy Policy](#) :: [Contact Us](#)

[Have a Happy Day!](#)



[Find a lawyer](#) [Bare Acts / India Codes](#) [Join As Association](#) [Our](#)

Title 01 Acts, Laws And Statutes
Title 02a Administration Of Civil And Criminal Justice
Title 03a Administration Of Estates--decedents And Others
Title 04 Agriculture And Domestic Animals
Title 05 Amusements, Public Exhibitions And Meetings
Title 06 Aviation
Title 07 Bills, Notes And Checks
Title 09 Children--juvenile And Domestic Relations Courts
Title 10 Civil Rights
Title 11a Civil Service
Title 12 Commerce And Navigation
Title 12a Commercial Transactions
Title 13 Conservation And Development--parks And Reservations
Title 14 Acts Saved From Repeal
Title 14a Corporations, General
Title 15 Corporations And Associations Not For Profit
Title 15a Corporations, Nonprofit
Title 16 Corporations And Associations, Religious
Title 17 Corporations And Institutions For Finance And Insurance



Find a Lawyer :
Country :
City :
Category :

[Lawyer's Signup](#) [Lawyer's Login](#) [Member's Signup](#) [Member's Login](#)



[Home](#) > [St](#)

USA STATUTES : NEW_JERSEY
TITLE : TITLE 48 PUBLIC UTILITIES
CHAPTER : 48:2-21

48:2-21. Rates Schedule of rates. (a) The board may require every public utility schedules of every classification employed and of every individual or joint rate made, charged or exacted by it for any product supplied or service rendered w specified in the requirement. Fix rates. (b) The board may after hearing, upon writing: 1. Fix just and reasonable individual rates, joint rates, tolls, charges o well as commutation, mileage and other special rates which shall be imposed, thereafter by any public utility, whenever the board shall determine any existi schedule thereof, commutation, mileage or other special rate to be unjust, unr unjustly discriminatory or preferential. In every such proceeding the board sh hearing within 6 months and enter its final order within 8 months after the filir board initiating such proceeding, when such proceeding is on the board@s owr joined through the filing of an answer to a complaint, when such proceeding is 2. Fix just and reasonable joint rates, which shall be charged, enforced, collect railroads and street railroads in the carrying of freight. Whenever the railroads involved fail to agree upon the apportionment or division of a joint rate so est issue a supplemental order declaring the apportionment or division of the joint (c) The board may fix the rates or charges to be made by any corporation sub this chapter for the detention of a railroad car containing property transported in this State or for the use of railroad tracks occupied by such car, commonly c service, or for both such detention and use. Such rates and charges shall confi to the rates and charges for demurrage or car service prescribed and fixed by Commission for similar service. Increase in rates; hearings. (d) When any pub any existing individual rates, joint rates, tolls, charges or schedules thereof, : mileage and other special rates, or change or alter any existing classification, : written complaint or upon its own initiative, shall have power after hearing, up writing to determine whether the increase, change or alteration is just and rea proof to show that the increase, change or alteration is just and reasonable sh utility making the same. The board, pending such hearing and determination, suspension of the increase, change or alteration until the board shall have app exceeding 4 months. If the hearing and determination shall not have been con months the board may during such hearing and determination order a further additional period not exceeding, 4 months. The board shall approve the increa

Title 17b Insurance	<p>upon being satisfied that the same is just and reasonable. Amended by L.1962 21.1. Adjustment of rates during pendency of hearing The board may, during hearing instituted by it, on its own initiative or on petition, in which the approval of reasonable individual rates, joint rates, tolls, charges or schedules thereof, as mileage or other special rates is in issue, or at any other time, negotiate and adjust with any utility for an adjustment of the individual rates, joint rates, tolls, charges or schedules thereof as commutation, mileage or other special rates for any product or service supplied by a public utility. Such adjustment may be for, or without, a specified limit of time and shall be regarded as contractual. Such adjustment shall at all times be made through the proceedings provided for by this chapter, or through negotiation with a section. The board as a part of any such negotiation and adjustment shall provide for suspension or other disposition of any hearing of the character aforesaid then provided for. L.1962, c. 198, s. 14. 48:2-21.2. Circumstances under which board not required to arrive at any determination as to the justness or reasonableness of any existing rate or in prescribing a just and reasonable rate, fare or charge, the board shall not be required to rate base, if it determines that (a) the applicable operating expenses plus depreciation of property used and useful in its business, for which the rate, fare or charge is established, computed for the 12 months next preceding the month in which the proceeding is initiated, except such operation, during said period, under the existing rates, fares or charges as would be charged under the proposed increased rates, fares or charges will not exceed such operating expenses plus depreciation and taxes, or (b) the gross operating revenue of the public utility for the 12 months next preceding the month in which the proceeding is initiated less the depreciated book cost of its property used and useful in its business as a public utility for product or service is a new offering and not covered by an existing rate, fare or charge, the board. When the board shall prescribe a rate, fare or charge without finding its determination, make a finding of the facts on the basis of which it prescribes such charge. L.1962, c. 198, s. 31. 48:2-21.3. Stipulations extending suspension periods provided for in effecting dates of tariffs or rates Any public utility may file with the board a written stipulation to the board's approval at any time extending the suspension periods provided for in effecting the effective date of any tariff or rate. L.1962, c. 198, s. 32. 48:2-21.4. Any act complying with the worker and community right to know act considered as curative. The Board of Public Utilities shall consider all expenses incurred by a public utility in compliance with P.L.1983, c.315 (C.34:5A-1 et seq.) as a current expense of providing utility service charged to all ratepayers of the utility in the same manner as other current operating expenses of providing utility service. L.1983, c. 315, s. 28, eff. Aug. 29, 1984. 48:2-21.11. Reimbursement for costs incurred from insurance carrier or as result of legal action from moneys available In determining just and reasonable rates for any electric utility pursuant to R.S. 48:2-21.1, or section 31 of P.L.1962, c. 198 (C. 48:2-21.2), the board shall provide that any moneys received by the utility as reimbursement for costs incurred for those for replacement energy, from any insurance carrier, or as a result of any settlement shall be accounted for as moneys available to the utility. L.1983, c. 315, s. 28, eff. 1984. 48:2-21.12. Adjustment to rates to provide reimbursements received at utility rates The board shall make an appropriate adjustment to the rates charged by a utility provide that any reimbursements so received are applied properly for reducing utility's rate hearing next following the utility's receipt of those moneys if those reimbursed costs are also being charged to rate payers. L.1983, c. 461, s. 13. 48:2-21.13. Inapplicability of act to reimbursements under \$100,000 The provisions of this act shall not apply to moneys reimbursed which are less than \$100,000.00. L.1983, c. 461, s. 13. 48:2-21.14. Fines, penalties not operating expense In determining just and reasonable rates for any electric utility pursuant to R.S. 48:2-21.1, or section 31 of P.L. 1962 (C. 48:2-21.2), the board shall not allow as an operating expense, any fines or penalties levied by law and paid by the utility. L. 1988, c. 100, s. 1. 48:2-21.15. Rate reduction for telecommunications carrier other than a telephone company, that is no longer a personal property pursuant to R.S. 54:4-1 et seq., or to taxation upon its gross operating revenue pursuant to P.L. 1940, c. 4 (C. 54:30A-16 et seq.) as a result of the amendments to section 54:4 (C. 54:30A-17 and 54:30A-18) and to R.S. 54:4-1 made in sections 2, 3 and 4 of P.L. 1940, c. 4. 48:2-21.16. Rate reduction for telecommunications carrier other than a telephone company, that is no longer a personal property pursuant to R.S. 54:4-1 et seq., or to taxation upon its gross operating revenue pursuant to P.L. 1940, c. 4 (C. 54:30A-16 et seq.) as a result of the amendments to section 54:4 (C. 54:30A-17 and 54:30A-18) and to R.S. 54:4-1 made in sections 2, 3 and 4 of P.L. 1940, c. 4.</p>
Title 18a Education	
Title 19 Elections	
Title 20 Eminent Domain	
Title 21 Explosives And Fireworks	
Title 22a Fees And Costs	
Title 23 Fish And Game, Wild Birds And Animals	
Title 24 Food And Drugs	
Title 25 Frauds And Fraudulent Conveyances	
Title 26 Health And Vital Statistics	
Title 27 Highways	
Title 28 Historic Memorials, Monuments And Sites	
Title 29 Hotels	
Title 2b Court Organization And Civil Code	
Title 2c The New Jersey Code Of Criminal Justice	
Title 30 Institutions And Agencies	
Title 31 Interest And Usury	
Title 32 Interstate And Port Authorities And Commissions	
Title 33 Intoxicating Liquors	
Title 34 Labor And Workmens Compensation	
Title 35 Legal Advertisements	
Title 36 Legal Holidays	
Title 37 Marriages And Married Persons	
Title 38 Militia--soldiers, Sailors And Marines	
Title 38a Military And Veterans Law	
Title 39 Motor Vehicles And Traffic Regulation	
Title 3b Administration Of Estates--decedents And Others	
Title 40 Municipalities And	

Counties	<p>shall, within 90 days of the operative date of this act, petition the Board of Public Utilities to reduce its rates. The board shall institute a hearing on the petition, and a hearing shall determine the amount of the reduction in the rate base of the telecommunications carrier which reflects the elimination of the tax liability of such carrier under those circumstances. The reduction shall not take effect prior to January 1 next following enactment of this act.</p> <p>48:2-21.16. Findings, declarations 1. a. The Legislature finds and declares the State to: (1) Maintain universal telecommunications service at affordable rates and ensure that all customers pay only reasonable charges for local exchange telecommunications services available on a non-discriminatory basis. (3) Ensure that rates for noncompetitive telecommunications services do not subsidize the competitive ventures of providers of telecommunications services. Provide diversity in the supply of telecommunications services and products in telecommunications markets throughout the State. (5) Permit the board the authority to approve a regulation in order to address changes in technology and the structure of the telecommunications industry; to modify the regulation of competitive services; and to promote economic development. The Legislature further finds and declares that: (1) In a competitive marketplace, traditional utility regulation is not necessary to protect the public interest and that competition will reduce regulatory delay, and foster productivity and innovation. (2) Whether or not there are sufficient competitive alternatives, or barriers to entry, the interexchange telecommunications market in New Jersey is sufficiently competitive to relieve interexchange telecommunications carriers from traditional utility regulation. (3) Permitting the competitive interexchange telecommunications carriers to operate without traditional utility regulation will produce a wide range of competitive market-based prices. (4) The board has found the interexchange telecommunications market place sufficiently competitive to relieve interexchange carriers from traditional utility regulation. L.1991,c.428,s.1. 48:2-21.17. Definitions 2. ~Alternative form of regulation~ means a form of regulation of telecommunications services which is subject to regulation by the board pursuant to section 19 of P.L.1974, c.27 (C.52:27E-18). ~Competitive telecommunications service~ means a telecommunications service determined by the board to be competitive prior to the effective date of this act or determined to be competitive pursuant to sections 4 or 5 of this act and which is not regulated by the board. ~Interexchange telecommunications carrier~ means a carrier, other than a local exchange telecommunications company, authorized to provide long-distance telecommunications services. ~LATA~ means Local Access Transport Area as defined by the board in conformance with applicable federal law. ~Local exchange telecommunications company~ means a carrier authorized by the board to provide local telecommunications services. ~Protected telephone services~ means any of the following telecommunications services provided to business or residential customers for completing local calls; touch-tone service or similar service; access services other than those that the board has previously found to be competitive; toll service provided by a telecommunications company; and the ordering, installation and restoration of telecommunications services. ~Division of Rate Counsel~ means the Division of Rate Counsel in the Department of the Public Utilities to section 19 of P.L.1974, c.27 (C.52:27E-18). ~Telecommunications service~ means a telecommunications service which is subject to regulation by the board pursuant to section 19 of P.L.1974, c.27 (C.52:27E-18). L.1991,c.428,s.2. 48:2-21.18. Plans for alternative form of regulation 3. a. A local exchange telecommunications company may petition the board to be regulated under an alternative form of regulation. The company shall submit it</p>
Title 40a Municipalities And Counties	
Title 41 Oaths And Affidavits	
Title 42 Partnerships And Partnership Associations	
Title 43 Pensions And Retirement And Unemployment Compensation	
Title 44 Poor	
Title 45 Professions And Occupations	
Title 46 Property	
Title 47 Public Records	
Title 48 Public Utilities	
Title 49 Sale Of Securities	
Title 50 Shellfish	
Title 51 Standards, Weights, Measures And Containers	
Title 52 State Government, Departments And Officers	
Title 53 State Police	
Title 54 Taxation	
Title 54a New Jersey Gross Income Tax Act	
Title 55 Tenement Houses And Public Housing	
Title 56 Trade Names, Trademarks And Unfair Trade Practices	
Title 58 Waters And Water Supply	
Title 59 Claims Against Public Entities	
ARTICLES	
Employment, Criminal and Labor	
Family	
CONSTITUTION	
Rights and Privileges	
Elections and Suffrage	
Distribution of the Powers of	

Government
Legislative
More...
SEARCH A LAWYER
Country: Select Country <input type="text"/>
City: <input type="text"/>
SEARCH
ACTS, STATUTES
Select Country <input type="text"/>
 Submit Article
 Article Login

form of regulation with its petition. The company shall also file its petition and the Director of the Division of Rate Counsel. The board shall review the plan and or approve with modifications, if it finds, after notice and hearing, that the plan affordability of protected telephone services; (2) will produce just and reasonable telecommunications services; (3) will not unduly or unreasonably prejudice or class or providers of competitive services; (4) will reduce regulatory delay and public interest; (6) will enhance economic development in the State while maintaining (7) contains a comprehensive program of service quality standards, with procedures for monitoring and review; and (8) specifically identifies the benefits to be derived from the form of regulation. b. Notwithstanding the provisions of R.S.48:2-18, R.S.48:2-21, section 31 of P.L.1962, c.198 (C.48:2-21.2) or any other law to the contrary, in order to provide reasonable rates, the board may authorize a local exchange telecommunications company based on an alternative form of regulation pursuant to a plan approved under subsection a. c. No local exchange telecommunications company may use revenues derived from such services to subsidize competitive services. d. The board shall have the power to require an independent audit or such accounting and reporting as may be necessary for local exchange telecommunications companies as are necessary to allow a proper review of investments, costs or expenses for all telecommunications services, competitive services, subject to the jurisdiction of the board. L.1991,c.428,s.3. 48:2-21.19. Competitive services regulated; conditions 4. a. Notwithstanding the provisions of R.S.48:2-18, R.S.48:2-21, P.L.1962, c.198 (C.48:2-21.2), R.S.48:3-1, or any other law to the contrary, the board shall regulate, fix or prescribe the rates, tolls, charges, rate structures, terms and conditions of service, base, rate of return, and cost of service, of competitive services. The board may authorize a local exchange telecommunications company or interexchange telecommunications company to maintain tariffs for competitive telecommunications services. b. The board is authorized to determine, after notice and hearing, whether a telecommunications service is a competitive service. c. In making such a determination, the board shall develop standards of competitive service which shall include evidence of ease of market entry; presence of other competitors; ability to provide like or substitute services in the relevant geographic area. d. The board may determine whether or in accordance with the provisions of a plan filed pursuant to subsection a. of this section what reports are necessary to monitor the competitiveness of any telecommunications service. e. The board shall have the authority to reclassify any telecommunications service that is currently classified to be competitive if, after notice and hearing, it determines that sufficient competitive services are present, upon application of the criteria set forth in subsection b. of this section. f. Upon reclassification, subsection a. of this section shall no longer apply and the board shall continue to monitor the telecommunications service and, whenever the board determines that a telecommunications service has again become sufficiently competitive pursuant to subsection b. of this section, the board shall again apply the provisions of subsection a. of this section. g. In order to protect the provisions of subsection a. of this section, the following safeguards shall apply to the classification of a competitive service by a local exchange telecommunications company: (1) the telecommunications company shall unbundle each noncompetitive service which is currently classified as a competitive service and shall make all such noncompetitive services separately available to each customer under tariffed terms and conditions, including price, that are identical to those used by the local exchange telecommunications company in providing its competitive services; (2) the local exchange telecommunications company charges for a competitive service shall not be higher than the charges charged to others for any noncompetitive services used by the local exchange telecommunications company to provide the competitive service; (3) tariffs for competitive services shall either be in the public records, or, if the board determines that the rates are not in the public records, filed under seal and made available under the terms of an appropriate protective order; and (4) nothing in this act shall limit the authority of the board pursuant to R.S.48:3-1, to ensure that local exchange telecommunications companies do not impose unjust preferences, discriminations, or classifications for noncompetitive services. L.1991,c.428,s.4. 48:2-21.20. Interexchange carrier services deemed competitive services. For purposes of subsection a. of section 4 of this act, telecommunications services provided by interexchange telecommunications carriers are deemed to be competitive services.

act shall affect the board's authority to determine whether and under what terms to permit interexchange telecommunications carriers to offer intralATA services and the board may establish service quality standards for interexchange telecommunications services; nothing in this act shall limit the authority of the board to promulgate service quality standards for interexchange telecommunications carriers or to resolve complaints regarding interexchange telecommunications carrier service. d. Nothing in the act shall limit the board to determine whether an interexchange telecommunications carrier should be granted the privilege of operating within this State. L.1991,c.428,s.5. 48:2-21.21. Rate of Return. Whenever rate counsel represents the public interest pursuant to its statutory duties, the petition and plan filed by a local exchange telecommunications company or telecommunications carrier with the board pursuant to the provisions of this act and the Division of Rate Counsel may assess each participating local exchange telecommunications carrier for reimbursement to the Treasurer of the State of New Jersey. L.1991,c.428,s.6. 48:2-21.22. Findings, Declaration of Public Interest relative to AOS companies 1. The Legislature finds and declares that: a. In 1991, the Legislature acted to exempt competitive telecommunications services from traditional utility regulation and that such regulation is generally not necessary to protect the public interest in the telecommunications marketplace. However, in its report to the Governor and Legislature on the implementation of P.L.1991, c.428 (C.48:2-21.16 et seq.) the Board of Public Utilities has found that a competitive market exists for competitive telecommunications services, market conditions exist that protect the public interest. b. In particular, the board has received many complaints regarding ~alternate operator service~ (AOS) companies which provide operator assistance services, such as party billed, and credit card calls, usually at pay phones on the premises of hospitals or airports, with such establishments receiving a commission for call arrangement. Given the provisions of P.L.1991, c.428, there has been some doubt as to the board's authority to protect consumers' interests with regard to AOS companies. It is appropriate, therefore, that the Legislature act to clarify the powers of the board with regard to AOS companies, and to specifically authorize the board to take appropriate action, in addition to rate regulation, to protect the interests of consumers of alternate operator service. c. It is the policy of the board that such action is necessary to protect the users of those services. L.1991,c.428,s.7. 48:2-21.23. Regulation of ~alternate operator service provider,~ definition 2. It is the policy of the Board of Public Utilities, upon a finding by the board that such measures are necessary to protect the interests of alternate operator service providers, may regulate the rates and terms and conditions of service for those providers, and use any other means necessary pursuant to law, rule or regulation to protect the interests of users of those services. As used in this section, ~alternate operator service provider~ means a telecommunications carrier who is a reseller leasing lines from another telecommunications carrier and interexchange carriers and who, using these leased facilities along with its own facilities, provides operator-assisted services. L.1995,c.172,s.2. 48:2-21.24. Findings, Declaration of Public Interest relative to delivery of electricity, natural gas 1. The Legislature finds and declares that it is in the public interest to foster the production and delivery of electricity and natural gas in such a manner as to ensure that rates and improve the quality and choices of service for all of the State's residents and thereby ensure that New Jersey remains economically competitive on a regional and international basis; to implement programs which effectuate the economic development of the State; to attract and retaining business, maintaining and creating jobs and enhancing the State; to achieve federal and State environmental objectives in a cost effective manner; to secure energy supplies and service to end users, and the efficient use, production and delivery of energy; to maintain universal access to reliable electric and gas utility service; to eliminate unnecessary and costly regulatory oversight. The Legislature further finds and declares that competitive market forces can produce improved quality and choices of energy and natural gas as well as promote efficiency, reduce regulatory delay, foster productivity and create jobs in a competitive marketplace, traditional utility regulation may not be required to protect the public interest; and that to varying degrees, competitive forces now pervade the electric and natural gas markets and some segments of the retail markets in these industries. 2. The Legislature further finds and declares that the Division of the Ratepayer Advocate has the authority to appear before the Board of Public Utilities.

affect the rates of public utility customers; that this act does not modify that a Division of the Ratepayer Advocate therefore has full authority to intervene in Board of Public Utilities that are authorized by this act. The Legislature therefore whenever practicable, in the interests of ratepayers and otherwise consistent with this act, the Board of Public Utilities should implement programs that promote a market-based, competitive environment for the production and delivery of natural gas during a transitional phase aimed at achieving the long-term goal of lower electricity costs to consumers, it may be necessary for the Board of Public Utilities to implement measures to promote and enhance economic development and employment in those segments of the marketplace where full and effective competition is not possible; that to the extent practicable, the Board of Public Utilities should permit utilities to compete for customers with competitive alternatives; that to the extent practicable, the Board of Public Utilities should align ratepayer and utility interests in cost management and foster greater innovation and efficiency within the utility to help achieve the policy goals of this act; that during a market-based, competitive environment, the Board of Public Utilities must adopt regulations that produce tangible benefits for ratepayers as compared to traditional rate of return regulation and that no cross-subsidization exists between or among utilities; that the Board of Public Utilities should, subject to the provisions of this act, compare the price and quality of electricity and natural gas service under traditional rate of return regulation in those segments of the marketplace where full and effective competition is not possible with the price and quality of service under alternative forms of regulation whenever the board determines that energy consumers are better served than under traditional rate of return regulation; that alternative forms of regulation shall be designed to achieve the objective of lowering rates for New Jersey consumers. L.1995,c.180,s.1. 48:2-21.26. Standards for off-tariff rate agreements 3. a. N.J.A.C. 17:27.10. Definitions. As used in this act: ~Alternative form of regulation~ means a form of regulation other than traditional rate base, rate of return regulation as embodied in the Revised Statutes, to be determined by the board; ~Base rate case~ means an application filed before the Board of Public Utilities to consider a filing by a public utility for a rate case which includes an analysis of the public utility's income statement and balance sheet and of determining the level of revenues necessary to afford the public utility an opportunity for a fair and reasonable rate of return on prudently incurred capital investment in the property; ~Board~ means the Board of Public Utilities or any successor agency; ~Competitive market~ means a market for a particular utility service that is characterized by the existence of: (1) the availability of like or substitute service, ease of market entry, and such other factors as may be adopted by the board; ~Comprehensive energy audit~ means an assessment of a building's energy systems to determine the consumption characteristics of a building which shall include the size, and rate of energy consumption of such building, including industrial processes; ~Cross-subsidization~ means an undue transfer of cost allocation or revenue recovery from one utility to another; ~Demand side management~ means the management of a public utility's electricity or energy needs through the implementation of cost-effective energy efficiency measures, but not limited to, installed conservation, load management and energy efficiency programs on residential, commercial, industrial, institutional and governmental premises; ~Marginal energy and capacity cost~ means the incremental increase in a utility's total capacity costs associated with providing an additional increment of utility service; ~Market pricing~ means charging a negotiated price for utility service rather than a price available in a competitive marketplace, as opposed to a cost-of-service based tariff rate; ~Off-tariff rate~ means a rate for utility service charged by a utility to a retail customer as a result of a negotiation between the utility and the customer, rather than being based on a cost-of-service based tariff rate; and ~Revenue erosion~ means a reduction in revenues received by a utility from the provision of an off-tariff rate to a customer, as measured by the difference between the cost-of-service based tariff rate and the off-tariff rate, as applied to the sales to the customer. L.1995,c.180,s.2. 48:2-21.26. Standards for off-tariff rate agreements 3. a. Notwithstanding any provision of the Administrative Procedure Act, (C.52:14B-1 et seq.) to the contrary, the Board of Public Utilities shall initiate and adopt, after notice, provision of the opportunity for comment, and public hearing, standards for off-tariff rate agreements regarding minimum prices, confidentiality standards, maximum contract duration, and such other standards as the board may determine are necessary for off-tariff rate agreements.

consistent with this act. Any subsequent modification of the standards that is adopted shall be adopted pursuant to the Administrative Procedure Act, P.L.1968, c.116 (C.48:2-21.26 and 48:2-21.27). b. After the adoption by the board of specific standards pursuant to subsection a. of this section, an electric public utility may, within seven years of July 20, 1995, enter into an agreement with an individual retail customer pursuant to the provisions of section 3 of P.L.1995, c.180 (C.48:2-21.26 and 48:2-21.27). The provisions of sections 3 and 4 of P.L.1995, c.180 (C.48:2-21.26 and 48:2-21.27) shall apply to an off-tariff rate agreement entered into by an electric public utility after that date, except as otherwise provided by the board. Notwithstanding the seven-year limitation pursuant to this subsection, an off-tariff rate agreement that is entered into during the period shall remain in effect until its expiration pursuant to the terms of the agreement. A rate agreement shall be filed with the board a minimum of 30 days prior to its expiration and shall contain sufficient information to demonstrate that the off-tariff rate agreement meets the standards established in subsection d. of this section and the standards established pursuant to subsection a. of this section. The entire agreement shall be available to the public, except that the board may, upon petition, keep confidential certain parts of the agreement or support the agreement if the information is competitively sensitive. Upon petition by the public utility, the board may, upon finding that any part of the agreement that is found to contain competitively sensitive information would harm the competitive position of either party to the agreement, a copy of the agreement and supporting information shall be served simultaneously upon the public utility, the Ratepayer Advocate, or its successor agency. The staff of the board and the public utility shall have full access to all portions of the agreement and to any supporting documentation. A non-disclosure agreement to be approved by the board. The board or its staff may, upon review of the agreement, and upon review the board may delay its implementation if it requires further review of the agreement or shall disapprove the agreement upon a finding that the agreement does not meet the conditions established in subsection d. of this section and the standards established pursuant to subsection a. of this section. If the board does not issue notice that it is delaying its implementation for further review or that it disapproves the agreement, the utility may implement the agreement. An off-tariff rate agreement implemented pursuant to this subsection shall result in a reduction in the gross receipts and franchise tax or a successor tax pursuant to section 3 of P.L.1995, c.180 (C.54:30A-100 et seq.). d. An off-tariff rate agreement implemented pursuant to subsection c. of this section shall be effective on the effective date of retail competition as provided in subsection a. of section 3 of P.L.1995, c.180 (C.48:3-53) may establish a price for electricity to a retail customer that is different from, but in no case higher than, that specified in the utility's current cost-of-service based tariff rate applicable to that customer. An off-tariff rate agreement implemented pursuant to subsection c. of this section after the effective date of retail competition as provided in subsection a. of section 3 of P.L.1995, c.180 (C.48:3-53) may establish a price for the transmission or distribution of electricity to a retail customer that is different from, but in no case higher than, that specified in the electric utility's current cost-of-service based tariff rate for transmission or distribution service to a retail customer. An off-tariff rate agreement shall be subject to the following conditions: (1) no retroactive recovery by the utility from its general ratepayer base of any rate increase that occurs prior to the conclusion of the utility's next base rate case. Subsequent to the utility's next base rate case, any such recovery shall be prospective only and shall be subject to section 4 of P.L.1995, c.180 (C.48:2-21.27). (2) In no event shall any customer be required to enter into an off-tariff rate agreement. (3) An off-tariff rate for electricity at a minimum shall be based on the following: (a) the electric public utility's marginal cost to provide transmission and distribution service to the customer over the term of the off-tariff rate agreement, (b) the utility's contribution to the societal benefits charge, market transition charge, and transmission and distribution charges established pursuant to P.L.1999, c.23 (C.48:3-49 et al.) and otherwise charges established pursuant to applicable rate schedule, and (c) a floor margin to be specified by the board pursuant to subsection a. of this section, which shall constitute the minimum contribution by an off-tariff rate agreement to the public utility's fixed transmission and distribution costs. (4) Evidence of a cost-benefit analysis of the customer's facility must be submitted to the utility prior to the effective date of the off-tariff rate agreement, in order to ensure that the customer has evaluated cost-effective and demand side management measures at its facility as part of its efforts to reduce its electricity costs. (5) The term of the off-tariff rate agreement shall not exceed a maximum number of years as specified by the board pursuant to subsection a. of this section, except that the

rate agreement may exceed the maximum contract term established by the board after the review and approval of the board on a case by case basis. (6) The electric public utility shall not provide the provision of any competitive service or basic generation service offered by the utility to a customer in a related competitive business segment to the customer as a pre-condition to the customer's agreement to an off-tariff rate agreement. (7) The utility shall submit any information required by the board to meet the requirements established pursuant to subsection a. of this section. e. Each electric public utility shall file with the board and the Director of the Division of the Ratepayer Advocate, as determined by the board, a report, which shall be made available to the public, containing the number of off-tariff rate contracts implemented, the aggregate expected revenues thereunder, and an estimate of the aggregate differential between the revenues from the off-tariff rate agreements and the revenues that would have been produced under the approved tariff rate, so that the board can evaluate the total impact of off-tariff rate agreements on the financial integrity of the utility and on its ratepayers. f. Upon notice and hearing, the board may suspend an electric public utility's implementation of additional off-tariff rate agreements during the pendency of a base rate case proceeding. L.1995,c.180,s.3; amended 1999, c.23, s.53. 48:2-21.27. Base rate case proceeding. An electric public utility that enters into an off-tariff rate agreement pursuant to section 3 (C.48:2-21.26) shall not recover through rates any revenue erosion that occurs between the date of the agreement and the conclusion of the public utility's next base rate case proceeding. In a base rate case proceeding, an electric public utility may request prospective recovery of the quantifiable revenue erosion resulting from an existing off-tariff rate agreement. If the utility requests partial recovery of revenue erosion from an off-tariff rate agreement, notwithstanding any provision of subsection c. of section 3 of P.L.1995, c.180, the entire agreement shall be available to the public, except that a public utility may request the board to keep confidential certain parts of the agreement or supporting documents that are competitively sensitive. Upon petition by the public utility, and after an opportunity for all interested parties to comment, the board may classify as confidential any part of the agreement that contains competitively sensitive information that, if revealed, would harm the competitive interests of either party to the agreement. An intervenor in the base rate case proceeding may request access to confidential information that has been classified as confidential. The board shall grant such access if the intervenor executed a non-disclosure agreement, if the board determines that the intervenor has pursued fully in the base rate case proceeding without access to the confidential information and the intervenor is not a direct competitor of either party to the agreement. c. In a base rate case proceeding at which an electric public utility requests, pursuant to subsection b. of this section, prospective recovery of revenue erosion, the board may approve prospective recovery of revenue erosion occurring after the conclusion of that base rate case proceeding, in order to ensure that ratepayers shall not bear a greater portion of the revenue erosion resulting from the off-tariff rate agreement than the public utility, if the board determines that: (1) All appropriate adjustments, including but not limited to sales growth, standby and backup sales, are credited to the revenue requirement calculation and that the utility is not already receiving a reasonable rate of return; (2) The utility has developed and implemented a cost-based rate of return on its cost of delivering power; (3) Ratepayers are paying lower rates with the implementation of an off-tariff rate agreement for a particular customer than without such implementation. If the off-tariff rate agreement allowed the utility to continue to maintain the customer and the customer's contribution to the fixed transmission and distribution costs of the utility is less than the utility's contribution, the customer's ratepayers are paying lower rates than the utility's ratepayers. A determination that the public utility's ratepayers are paying lower rates than the utility's ratepayers upon implementation of an off-tariff rate agreement prior to the effective date of P.L.1995, c.180 et al.) will therefore include a finding that the customer receiving the off-tariff rate agreement has an alternative source of power deliverable to its site and, had it not received the off-tariff rate agreement, ceased to obtain its power primarily from the public utility; or (b) Would have obtained its power outside of the State to a location where power could be obtained at a lower cost than the off-tariff rate. A determination that the public utility's ratepayers are paying lower rates than the utility's ratepayers upon implementation of an off-tariff rate agreement on or after the effective date of P.L.1995, c.180 et al.) will therefore include a finding that the customer receiving the off-tariff rate agreement has an alternative source of power deliverable to its site and, had it not received the off-tariff rate agreement, ceased to obtain its power primarily from the public utility.

relocated its facility outside of the State to a location where it could have obtained a lower cost, had it not received the off-tariff rate; and (4) The utility and the customer complied with the provisions of P.L.1995, c.180 (C.48:2-21.24 et seq.) and the provisions adopted by the board pursuant to subsection a. of section 3 of P.L.1995, c.180 (C.48:2-21.24 et seq.); amended 1999, c.23, s.54. 48:2-21.28. Petitions for alternative regulation under an alternative form of regulation for its distribution system on prices for all or a portion of its retail customer base, or for the purpose of complying with the provisions of this act without changing the rate reductions for the customers under section 4 of P.L.1999, c.23 (C.48:3-52), no earlier than 12 months after retail competition as provided in subsection a. of section 5 of P.L.1999, c.23 (C.48:3-52) shall submit its plan for an alternative form of regulation with its petition and also file its petition and plan concurrently with the Director of the Division of Public Utilities or its successor. The public utility shall provide, within 15 days of the filing of its notice of the specific filing to the clerk of each municipality, to the clerk of each Freeholders, and to each county executive, in the service territory of the public utility shall also provide, within 15 days of the filing, public notice to its customers of the notice in a newspaper that has a general circulation in its service territory or by the board. The board shall review the plan and may approve the plan, or approve modifications, if the board finds, after notice and hearing, that the plan will provide for the customers of the public utility, and that the plan meets the following standard: (1) Will meet the State's objective of producing lower rates for New Jersey consumers; (2) Will enable the utility to lower its costs and rates; (3) Will provide incentives to improve utility productivity; (4) Will foster the long-term delivery of electricity or natural gas and improve the quality and choices of service; (5) Includes a mechanism for the board to review the plan on a periodic basis over its term and to take appropriate action if the plan is not achieving its intended results; (6) Will maintain or improve pre-existing standards, except that an individual customer may agree to accept lower quality of service; (7) Shall continue to provide safe, adequate and proper service pursuant to R.S.48:2-21.24 in cross-subsidization among or between groups of utility customers, or between utility's business or operations subject to the alternative form of regulation and utility's business or operations that is not subject to the alternative form of regulation; (8) Will not result in regulatory delay and cost; (9) Is in the public interest and will produce just and reasonable rates; (10) Will enhance economic development in the State; (11) Will not discourage energy distributed generation as alternatives to distribution plant investment and will maintain the linkage between retail throughput and the recovery of fixed and stranded costs, or otherwise consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.). In the course of development of such plans, each electric public utility shall begin to collect data that will be needed to evaluate accurately alternatives to traditional infrastructure investment. Consistent with the provisions of P.L.1995, c.180 (C.48:2-21.24 et seq.), and the provisions of P.L.1999, c.23 (C.48:3-52), and meets the standards established in subsection a. of this section, the board may approve an alternative form of regulation that permits a gas or electric public utility to establish rates for retail customers without a finding of rate base and reasonable rate of return under the existing provisions of Title 48 of the Revised Statutes, if the board determines that the rate charged by the utility to a retail customer is no lower than a minimum price that the board to prevent anti-competitive pricing and that: (1) The group of customers is in a competitive market for supply of power to its site and that market pricing of the utility to that group of customers is thereby appropriate; or (2) The group of customers has agreed in writing to accept a price that has not been established based upon reasonable rate of return standards pursuant to Title 48 of the Revised Statutes; or (3) At the time of approval, the level of retail prices of the utility for the group of customers is determined to be reasonably reflective of the level necessary to produce a fair and reasonable rate of return on a current evaluation under pre-existing standards of Title 48 of the Revised Statutes. The board provides mechanisms for prospective adjustments to rates that will track trends in costs. (Deleted by amendment, P.L.1999, c.23). d. An alternative regulation plan as provided in subsection a. of this section shall not include any mechanism for: (1) Recovery of revenue erosion

(2) A reduction in the gross receipts and franchise tax or a successor tax pursuant to C.54:30A-100 et seq.). e. The board may require an independent audit or such reporting systems from electric and gas utilities as are necessary to allow a proper accounting of investments, costs or expenses for all services provided under the provisions of this section (C.48:2-21.24 et seq.) that are subject to the jurisdiction of the board. f. Consistent with the provisions of this section, the Legislature hereby authorizes and directs the New Jersey Energy Regulatory Board, in conjunction with the Board of Public Utilities, to establish the New Jersey Alternate Vital Energy (NJ SAVE) program for the purpose of funding capital investments in gas distribution facilities, and for purchase and installation of natural gas heating appliances located on the premises of homeowners, where those homeowners live in age-restricted communities. The authority may issue bonds on behalf of the utility, the proceeds of which may be used for the purpose of distributing in the form of a meter charge to customers for the purpose of allowing such customers to pay home heating costs and the customer's contribution, to the extent applicable, to gas distribution costs required to serve those customers. The gas public utility shall be permitted to charge, as approved by the board, to recover the funds to repay loan principal collected by the gas public utility as a result of such meter charge shall be utilized by the utility to repay the bonds issued by the authority. Nothing in this section shall alter the gas public utility's obligation to repay any bonds issued by the authority pursuant to P.L.1999, c.23, s.55. 48:2-21.29. Reports 6. The Board of Public Utilities shall report to the Legislature on the implementation of P.L.1995, c.180 (C.48:2-21.24 et seq.) and the restructuring of the electric power industry pursuant to P.L.1999, c.23 (C.48:3-1 et seq.) of the third year following the effective date of P.L.1999, c.23 (C.48:3-49 et seq.) thereafter. L.1995,c.180,s.6; amended 1999, c.23, s.56. 48:2-21.30. Authority of the Ratepayer Advocate 7. Nothing in this act shall be construed to alter or diminish the authority of the Division of the Ratepayer Advocate to participate in any proceedings of the Board of Public Utilities that may affect the rates that are charged to customers of an electric utility. L.1995,c.180,s.7. 48:2-21.31 Terms, conditions unaltered for retail sales, certified by the Board of Public Utilities pursuant to P.L.1997, c.162 (C.54:10A-5.25 et al.) shall be construed to alter any terms or conditions of a contract for the duration of the contract, for the retail sale of electricity or natural gas, which establishes a customer-specific tax classification and that was approved by the Board of Public Utilities prior to January 1, 1998, notwithstanding any contract which those contracts were established. b. Amounts billed by a utility pursuant to this section shall be remitted to the Division of Taxation in the Department of the Treasury on or before April 1, 1998 and on or before April 1 of each year thereafter. c. On and after the effective date of any tariff rate agreement or alternate regulation plan pursuant to P.L.1995, c.180 or any other order of the board shall allow for any reduction or exemption from a surcharge imposed pursuant to P.L.1997, c.162 (C.54:10A-5.25 et al.) and no later than the provisions of P.L.1997, c.162 (C.54:10A-5.25 et al.). L.1997,c.162,s.59. 48:2-21.32 Board of Public Utilities may adopt, pursuant to the Administrative Procedure Act (C.52:14B-1 et seq.), such rules as it deems necessary to implement the provisions of this section. L.1997,c.162,s.63. 48:2-21.33 Tax and related savings to consumers. 65. The Board of Public Utilities shall have authority and shall pass along the tax and related savings realized by the utility pursuant to P.L.1997, c.162 (C.54:10A-5.25 et al.) to consumers when making rate calculations. L.1997,c.162,s.64. Definitions relative to 1997 tax changes; filing required; formulas; adjustment in this section: ~Base rates~ means the rates, including minimum bills, charges, or service subject to the board's jurisdiction, other than the rates charged under an energy adjustment clause, hereinafter ~LEAC,~ or levelized gas adjustment clause, hereinafter ~LGAC,~ or equivalent rate provision; ~Base year~ means the calendar year designated by the Board of Public Utilities; ~Sales and use tax~ means the sales and use tax on the sales and use of energy and utility service as defined in section 2 of P.L.1966, c.120; ~Utility~ means a public utility subject to regulation by the board pursuant to the Public Utilities Act; and ~Utility service~ means the supply, transmission, distribution or use of electricity, natural gas or telecommunications services or any combination of such processes or services. b. No later than 60 days after the date this act is enacted, any telecommunications utility subject to the provisions of this act shall file with the

simultaneously provide copies to the Director of the Division of the Ratepayer and such other supporting schedules, narrative and documentation required by this section, to reflect in the utility's rates the changes in tax liability effective later than 90 days after the date of the utility's filing, and after determining that rate changes provided for therein are in compliance with the provisions of this act, approve the utility's filing and associated rates for billing to the utility's customers for utility service rendered on and after January 1, 1998. If the board determines that the associated rate changes provided for therein are not in compliance with this act, the board shall require the utility to amend or otherwise modify its filing to reflect compliance. The board may also permit the rates provided for in the utility's filing to be implemented on an interim basis pending the board's final determination in the event the board determines that due to the filing's complexity, or for other valid reasons, including the enactment of this act after June 30, 1997, additional time is needed for the review of the filing. If the rates approved by the board upon its final determination are implemented on an interim basis, the difference shall be refunded to the utility at the interest computed in accordance with N.J.A.C.14:3-7.5(c). The rate adjustment provided by this act shall not constitute a fixing of rates pursuant to R.S.48:2-21 and shall not be subject to the hearing requirements set forth in that section. c. As of the effective date of the act, and except for rates applicable to sales that are exempt from the unit-based energy taxes formerly imposed pursuant to P.L.1997, c.162 (C.4:30 et seq.) and rates applicable to sales to which section 59 of P.L.1997, c.162 (C.4:30 et seq.) board shall remove from the base rates of each electric public utility and gas public utility the rates included therein for the recovery of those unit-based energy taxes, and in addition shall authorize the collection of the sales and use tax imposed pursuant to P.L.1945, c.162 (C.4:30 et seq.) and additionally shall authorize the collection of the sales and use tax imposed pursuant to P.L.1945, c.30 (C.54:32B-1 et seq.), as follows: (1) The base rates of each gas and electric utility shall be reduced by the amount of the unit-based energy taxes per kilowatthour or per cubic foot; (2) The provision for corporation business tax initially included in the base rates of each electric utility shall be based on the utility's after-tax net income earned in the base year unless the board determines, in its discretion, that such income as booked is unrepresentative of the utility's prospective net income, in which case the utility's base year net income shall be adjusted as determined by the board. To permit the board's determination, in addition to including in its filing schedules showing its net income for the base year as booked, the utility shall include adjustments to such booked income to reflect revenues, expenses and extraordinary or other charges that are non-recurring in nature, including, but not limited to an adjustment to eliminate the effect of unusually high or low weather that would otherwise make the utility's base year net income unusually high or low and unrepresentative of the utility's prospective net income. If the adjustment is made, the effect of unusually hot or cold weather, associated revenue and expense shall be reflected in the utility's base year net income. Subject to the board's approval, such adjusted income shall be the basis for the initial provision for corporation business tax to be included in the utility's base rates. The utility shall also include a calculation of its rate of return on common equity achieved in the base year as booked and as adjusted in accordance with the foregoing. The calculation shall be made using the methodology set forth in N.J.A.C.14:12-4.2(b)1, and shall separately show adjustments to the calculation, if any, that may have been employed in the utility's base year rate of return on common equity allowed for ratemaking purposes. The utility shall also include copies of its audited financial statements for the base year and as otherwise required by other reports filed with the Securities and Exchange Commission. To reflect the effect of the corporation business tax in base rates, the demand charges, or charges per kilowatthour or per million cubic feet; the energy charges, or charges per kilowatthour or per therm; the other charges, or charges other than demand and energy charges, set forth in each rate schedule, the floor price employed in parity rate schedules, included in the utility's tariff by the board shall be increased by amounts determined by multiplying such charges by the adjustment factor, $A_e, g = (I_e, g) \times [Rs / (1 - Re)]$ ----- where: A_e, g means the adjustment factor applicable to electric base rates or both, other than rates applicable to sales that were exempt from unit-based

imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) or to which section 5 (C.48:2-21.31) applies; ~I e, g~ means the utility@s base year after-tax net gas sales, or both, and transportation service subject to the board@s jurisdiction revenue if such revenue is reflected in the utility@s cost of service for ratemak as approved by the board; ~Br e, g~ means the utility@s base year revenue f to electric or gas sales, or both, and transportation service subject to the boar excluding sales that were exempt from unit-based energy taxes formerly impo P.L.1940, c.5 (C.54:30A-49 et seq.) or to which section 59 of P.L.1997, c.162 ~Rs~ means the corporation business tax rate, expressed as a decimal; ~Rf~ federal corporation income tax rate expressed as a decimal; and ~Re~ equals utility shall account for the changes in tax liability provided for by this act effe Such accounting shall include the recording on the utility@s income statement deferred corporation business tax defined, for book accounting purposes, as di business tax expense arising from timing differences in the recognition of reve book and tax purposes. (3) When billed to the utility@s customers, the adjust determined pursuant to paragraphs (1), (2), and (4) of this subsection, and th pursuant to the utility@s levelized energy adjustment clause, levelized gas adj as determined both upon the effective date of the rate changes authorized by prospectively in accordance with the utility@s tariff filed with and approved by transitional energy facility assessment unit rate surcharges, hereinafter, ~TEF, determined in accordance with subsection d. of this section, shall be increased determined by multiplying such charges by the sales and use tax rate imposec (C.54:32B-1 et seq.). In addition to the utility@s rates for service included in i purposes the tariff shall include such rates after application of the sales and us section. (4) The utility@s filing with the board to implement the rate changes j shall include an analysis, description, and quantification of the effect of the ch: payments implemented pursuant to this act on the utility@s requirement for c. if such requirement is less than the cash working capital allowed for the collec: based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 the utility@s base rates in effect prior to the rate changes implemented pursu: extent the working capital reduction is not offset by a reduction in net deferre below, such base rates shall be reduced by the reduction in the utility@s rever associated with the remaining reduction in the working capital requirement no reduction in working capital shall be determined by using the same methodolo establishing the working capital allowance related to unit-based energy taxes r base rates in effect prior to the rate changes implemented pursuant to this act utility@s revenue requirement associated with the reduced working capital req calculated using the utility@s last overall rate of return allowed by the board, i federal income taxes and the corporation business tax implemented pursuant : equity portion of the return, and shall be implemented on the effective date of provided for, and in the manner set forth in paragraph (2) of this subsection. I requirement for cash working capital is increased as a result of the changes in implemented pursuant to this act, the utility may accrue carrying costs, calcul: rate of return allowed by the board and applied on a simple annual interest ba on the increased working capital requirement and request recovery of such car proceeding before the board. The working capital-related base rate changes ar shall be subject to the board@s approval, and shall not be included in the dete unit tax surcharges provided for in subsection d. of this section. The utility@s : implement the rate changes provided for by this act shall also include an anal: quantification of net deferred taxes. For the purposes of this section, ~net defi deferred corporation business taxes, net of federal deferred income taxes, ass rate changes implemented pursuant to this act, including deferred corporation accordance with section 4 of P.L.1945, c.162 (C.54:10A-4), projected for the c this act takes effect and for each year of the tax life of the asset giving rise to business taxes pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4). If the c deferred taxes projected for the calendar year in which the rate changes imple

act takes effect is negative and if the utility's requirement for working capital the changes in rates and tax payments implemented pursuant to this act, the rate reduction that otherwise would have been implemented pursuant to this s treated as set forth in subparagraph (a) or (b) of this paragraph. For the purp in net deferred taxes is considered negative when it reduces an existing deferr a deferred tax asset on the utility's balance sheet. An appropriate rate adjust capital impacts of this act, reflecting all relevant facts and circumstances at th shall be made in the year when the earlier of the following events occur: (a) T reduction in carrying costs assumed for the rate reduction for working capital i made but for this paragraph is no longer required to offset, on a present value carrying costs calculated on the accumulated balance of negative net deferred recorded by the utility, its successors and assigns, over the tax life of the singl rise to such net deferred taxes pursuant to section 4 of P.L.1945, c.162 (C.54: of this subparagraph (a): (i) Carrying costs and present values are to be comp average after-tax rate of return approved by the board in the utility's last ba: The accumulated balance of such negative net deferred taxes shall include net associated with all assets and liabilities originally placed in service by the utilit or a company affiliated with the utility regardless of whether or not such asset to regulation by the New Jersey Board of Public Utilities. (b) The year in which working capital adjustment and the accumulated balance of negative deferred of subparagraph (a) of this paragraph (4), are reflected in the utility's rate b: before the board. It is the intent of this section to fully compensate utilities on for the carrying costs associated with negative net deferred taxes arising as a remit to ratepayers any credit due them as a result of any overcompensation a due to the treatment of working capital and deferred taxes as set forth herein this paragraph (4). At the time the above base rate adjustment is made, an ar determine if such carrying costs have been or will be fully recovered pursuant provision and any additional credit or charge to ratepayers to adjust for ratep underpayments, if any shall be addressed. If the change in net deferred taxes shall be added to, or increase, the reduction in the utility's requirement for w requirement is reduced as a result of the rate and tax payment changes imple act, or subtracted from the working capital requirement if it is increased, and i capital requirement shall be reflected in rates or accrue carrying costs in the s: prescribed for changes in the utility's requirement for working capital above. rate changes or carrying cost accruals shall be subject to the board's approv: included in the determination of the TEFA unit rate surcharges provided for in section. d. (1) Electric and gas utilities shall file, for the board's review and a rate surcharges determined by deducting from each unit-based energy tax uni January 1, 1997 the following: (a) An amount per kilowatthour or per therm d the total revenue received in the base year from sales to which that unit tax r applicable by the factor $R_u/(1 + R_u)$, where R_u is the sales and use tax rate in c.30 (C.54:32B-1 et seq.) expressed as a decimal, and dividing the result by t therms billed in that unit tax rate class in the base year; and (b) An amount p therm determined by dividing the revenue that would have been received in th inclusion, in the manner prescribed in paragraph (2) of subsection c. of this se business tax in the rates applicable to sales billed in that unit tax rate class by therms billed in that rate class. In each case, the determination shall reflect th that affect the level of sales and revenue, if any, as provided in subsection c. c resultant rate per kilowatthour or per therm, the portion for recovery of the ut energy facilities assessment liability shall be determined by multiplying such r: where R_s is the corporation business tax rate expressed as a decimal. The TEF shall constitute non-bypassable wires and/or mains charges of the utility, and sales within the customer classes to which they apply, regardless of whether s purchasing bundled or unbundled services from the utility, but shall not be app are currently exempt from unit-based energy taxes formerly imposed pursuan (C.54:30A-49 et seq.) or to which section 59 of P.L.1997, c.162 (C.48:2-21.31

the effective date of this act, a customer taking bundled service from the utility requirements from another supplier and take transportation or wheeling service TEFA unit rate surcharge applicable to the bundled service shall continue to apply to transportation or wheeling service. The TEFA components of the unit rate surcharges determined by this subsection (the components of the surcharges remaining after deducting the portion of the unit rate surcharge attributable to the business tax included therein) shall be used to determine the transitional energy liability pursuant to sections 36 through 49 of P.L.1997, c.162 (C.54:30A-100 through 109).

(2) Unless reduced pursuant to paragraphs (3) and (4) of this subsection, the TEFA unit rate surcharges are to be reduced annually on January 1, 1999 through January 1, 2010, by the following percentages: January 1, 1999, 20% January 1, 2000, 40% January 1, 2001, 60% January 1, 2002, 80% January 1, 2003, 80% January 1, 2004, 80% January 1, 2005, 80% January 1, 2006, 80% January 1, 2007, 80% January 1, 2008, 80% January 1, 2009, 80% January 1, 2010, 80%.

(3) Beginning with calendar year 1998 and ending with calendar year 2001, the TEFA surcharge adjustment shall be determined as the difference between: (a) The sum of the TEFA unit rate surcharges when known, (i) TEFA liabilities, as defined in section 43 of P.L.1997, c.162 (C.54:30A-103) and use taxes collected and corporation business taxes booked for the year 1998 by electric utilities and other entities subject to the TEFA provisions of this act (the TEFA unit rate surcharges and (ii) the TEFA liabilities of those utilities and entities in all years following the determination year in which a determination is being made pursuant to this subsection (the determination year); and (b) The sum of (i) the total of each remitter's base year liability, as defined in section 37 of P.L.1997, c.162 (C.54:30A-101), and (ii) the cumulative TEFA obligation, defined as the sum of the TEFA unit rate surcharges for the determination year of the amounts calculated by multiplying, for the applicable determination year, the second column of the following table: Determination Year % of Year 1998 TEFA Surcharge Adjustment

Determination Year	% of Year 1998 TEFA Surcharge Adjustment
1998	0%
1999	80%
2000	60%
2001	40%
2002	20%
2003	20%
2004	20%
2005	20%
2006	20%
2007	20%
2008	20%
2009	20%
2010	20%

where the Year 1998 TEFA Surcharge Adjustment is the total of each remitter's base year liability less the sales and use taxes collected and corporation business taxes booked for the privilege period ending in calendar year 1998 by electric utilities and other entities subject to the TEFA provisions of this act. For the determination year, the amounts assumed for the determination year, including the year 1998 TEFA surcharge adjustment, shall be estimates based on the best available data through and including the month of September, and three months of data through and including the month of October through December. (4) If the TEFA surcharge adjustment determined pursuant to this subsection for a determination year is positive (that is, if the amount determined pursuant to subparagraph (a) of this subsection is greater than the amount determined pursuant to subparagraph (b) of this subsection), no reduction shall be made in the TEFA unit rate surcharges provided for in paragraph (2) of this subsection for the year following the determination year. If the TEFA surcharge adjustment is negative, the reduction in the TEFA unit rate surcharges would have been implemented on January 1 of the year following the determination year. The TEFA unit rate surcharges provided for in paragraph (2) of this subsection shall be reduced by an amount (by percentage) equal to the percentage the TEFA surcharge adjustment is of the total of the base year transmission and distribution assessment of all remitters, as defined in section 37 of P.L.1997, c.162 (C.54:30A-101); however, that such reduction in the reduction in the TEFA unit rate surcharges shall not exceed the percentage shown in paragraph (2) of this subsection for that year; and provided that for the first two years, that such reduction shall not exceed 10 percentage points for the reduction in the TEFA unit rate surcharges for calendar years 2002 through 2006 shall be the same as the TEFA unit rate surcharges in effect for calendar year 2001. (b) The TEFA unit rate surcharges for calendar year 2006 shall be reduced annually on January 1, 2007 through January 1, 2010, by the following percentages: January 1, 2007 20% January 1, 2008 40% January 1, 2009 60% January 1, 2010 80% e. The utility's filing with the board to implement the rate changes shall include proof of revenue schedules that show for each rate schedule including residential, commercial, industrial, and other classes, the number of customers on each rate schedule, the billing determinants of such customers (i.e. the kilowatts of electric energy consumed, and the million cubic feet/decatherm of gas consumed) and the associated revenue in the base year and on a pro forma basis reflecting the rate changes implemented. The proof of revenue shall additionally show the amount of unit-based energy taxes in the base year revenue as booked, the unit-based energy taxes that would have been based on the unit-based energy tax unit tax rates effective January 1, 1997, if different, as well as the amount of business tax, sales and use tax and transitional energy facility assessment revenue in the base year and on a pro forma basis reflecting the rate changes implemented.

been collected or received on a pro forma basis if the rates implemented pursuant to this act in effect in the base year. f. The board may, in its discretion, permit the rate changes provided for by this act to be implemented as part of a pending base rate case or other proceeding in which the utility's rates are to be changed, provided that the effective date of the changes is not later than the date on which the changes would have been implemented under this section. The board may also, pursuant to its powers provided by law, permit other modifications in the implementation of this section to address unforeseen consequences of the implementation of this act. g. Customers of the utility who are exempt from sales and use tax imposed on sales of gas and/or electricity or as a result of rate changes occurring on or after the date of this act or for other valid reasons are due a refund of sales and use tax on such sales and use tax as a result of implementing the rate changes provided for by this act. The State Treasurer shall promptly notify such customers of their right to obtain such refunds. The State Treasurer shall promptly notify such customers granted refunds under this provision in order to prevent additional sales and use tax from such customers. h. Public utilities providing telecommunications services shall file for the board's review and approval revised tariffs that eliminate the excise tax liability included therein pursuant to F.R.I. 16 et seq.), and shall include therein the corporation business tax calculated under this act used in calculating the adjustment factor set forth in paragraph (2) of subsection d. of this section shall not apply to telecommunication utilities, and telecommunications utilities subject to a plan of regulation other than rate base/rate of return shall not be required to file the rate of return information required by paragraph (2) of subsection d. of this section, shall, however, include a narrative and/or other documentation as required by paragraph (2) of subsection d. of this section, or other documentation, which may be adjusted to eliminate the effect of any other atypical events, on which the corporate business tax inclusion in rates for telecommunications utilities shall comply with all other applicable provisions of this act. The board shall not adjust the rates of a public utility, as provided in subsection c. of this section, for a purchase by a cogenerator of natural gas and the transportation of that gas for sales and use tax pursuant to paragraph (2) of subsection b. of section 26 of F.R.I. (C.54:32B-8.46). The board shall not allocate, in any future rate case, any sales and use tax, or transitional energy facility assessment to rates for a cogenerator. The board shall adjust the rates, as provided in subsection c. of this section, for a cogenerator of any quantity of natural gas and the transportation of that gas for sales and use tax pursuant to paragraph (2) of subsection b. of section 26 of F.R.I. (C.54:32B-8.46). (3) For the purposes of this section, ~cogenerator~ means a person or entity that owns or operates a cogeneration facility in the State of New Jersey, which is an installation or other structure whose primary purpose is the sequential production of steam or other forms of useful energy which are used for industrial, commercial or other purposes, and which is designated by the Federal Energy Regulatory Commission as a ~qualifying facility~ pursuant to the provisions of the ~Public Utility Regulatory Act, Pub.L.95-617. L.1997,c.162,s.67; amended 2001, c.433, s.4; 2004, c.43, s.2. on development of statement to energy user bills. 74. The State Treasurer and Public Utilities shall cooperate to develop a statement to be included on energy users bills that a portion of the charges in the billing are dedicated to property tax. L.1997,c.162,s.74.

USA-NEW JERSEY LAW FIRM / LAWYERS SERVICES PROVIDED IN USA-NEW JERSEY :

Usa-new Jersey Divorce Laws, custody, Usa-new Jersey Corporate Lawyers, Agreement, provident fund, Registered Marriage, Incorporation of company, Rent, eviction, tenancy, Lease Lawyers, Usa-new Jersey Labour laws, Appeal medical, negligence, Insurance claims/ accidents Lawyer, Usa-new Jersey Citizenship/ immigration Lawyers, Copyright, Dowry, Wills & Probate, Trust & Estates Lawyers, Intellectual Property Lawyer, Bankrupt Lawyers, Banking & Finance, Venture & Mergers, Consumer, Civil Right Law Usa-new Jersey, Medical Negligence, Medical Malpractice, legal notice Excise Law, octroi, cess Civil, Criminal Solicitor Usa-new Jersey, Registration of property, Title search, mutation relative Jersey Property lawyer, deeds, drafts, power of attorney, Recovery, Taxation Laws in Usa-new Jersey

LEGAL SERVICES

LAWYER BY LOCATION

LAW PRACTICE AREA

DDM 000470

[Add Lawyer](#)
[Legal Enquiry](#)
[Find a Lawyer](#)
[Bare Acts / India Codes](#)
[Statutes / Code](#)

[India Lawyer](#)
[United State Lawyer](#)
[UAE Lawyer](#)
[Canada Lawyer](#)
[Find More...](#)

[Business Law](#)
[Employment & Labor Law](#)
[Govt. Agencies & Taxation](#)
[Family Law](#)
[Real Estate Property Law](#)
[Immigration Law](#)

© copyright 2000-2010, HelplineLaw.com [Terms of USE](#)

This web site is designed for general information only. The information presented at this site should not be construed as a lawyer/client relationship. Persons accessing this site are encouraged to seek independent counsel for advice on all civil criminal issues or consult one of the experts online.



Agenda Date: 4/8/08
Agenda Item: IA

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF)
BANDWIDTH.COM CLEC, LLC FOR AUTHORITY TO) ORDER
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES)
THROUGHOUT THE STATE OF NEW JERSEY) DOCKET NO. TE08020078

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letters dated February 5, 2008, Bandwidth.com CLEC, LLC

("Bandwidth") has filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting a Certificate of Public Convenience and Necessity to provide resold and facilities-based local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner has submitted its financial information under seal and has filed a sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Bandwidth is a limited liability company organized under the laws of the State of Delaware. Bandwidth is a subsidiary of Bandwidth.com, Inc., a Delaware S Corporation providing voice and data services. Petitioner's principal offices are located at 4001 Weston Parkway, Suite 100, Cary, North Carolina 27513

Petitioner has submitted a copy of its Certificate of Formation from the State of Delaware and a Certificate of Authority to Conduct Business in the State of New Jersey as a Foreign Limited Liability Company. According to the petition, Bandwidth was formed to provide resold and facilities-based local exchange and interexchange telecommunications services to both business and residential customers throughout the State of New Jersey. Petitioner is currently authorized to provide telecommunications services in the State of California, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, Texas, Vermont, Washington and Wisconsin. Petitioner is in the process of obtaining similar authority to provide telecommunications services

in all other states. Petitioner is also authorized by the Federal Communications Commission ("FCC") to provide international and domestic interstate telecommunications services as a non-dominant carrier. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any criminal proceedings. Petitioner is in the process of reviewing an interconnection agreement for opt-in with Verizon, New Jersey Inc.

Petitioner seeks authority to provide facilities-based and resold local exchange and interexchange telecommunications services to and from all points to both residential and business customers throughout the State of New Jersey. Petitioner initially intends to provide services only to business customers in the areas served by Verizon – New Jersey and Embarq and does not plan to provide service in areas of any small or rural local exchange carriers. However, Petitioner seeks statewide authority so that it may expand into other service areas as market conditions warrant and as additional service areas become open to competition. Petitioner primarily intends on serving business customers throughout New Jersey for the next five (5) years although it may target residential customers as well. Petitioner states that it will offer basic local exchange, custom calling features and interexchange toll services including toll free services to both business and residential customers in New Jersey. Petitioner maintains a toll-free number for customer service inquiries and will file a proposed tariff with the Board.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located in Cary, North Carolina. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, Bandwidth states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to Bandwidth, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. §253(a).

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, as long as Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. §253(c).

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Bandwidth's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey.

The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52 the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively. The Board notes that the Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board.

The Board HEREBY ORDERS that:

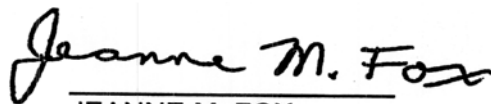
- (1) Petitioner file its tariff with the Board.
- (2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- (3) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

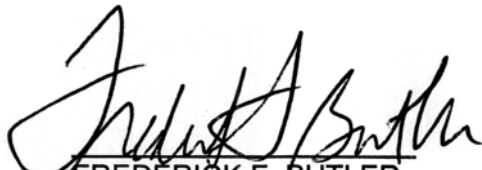
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board with books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 4/9/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

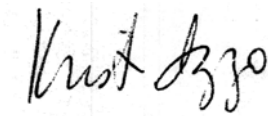

FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

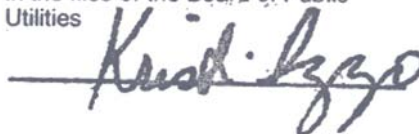

CHRISTINE V. BATOR
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



IN THE MATTER OF THE PETITION OF BANDWIDTH.COM CLEC, LLC, FOR AUTHORITY
TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS
SERVICES THROUGHOUT THE STATE OF NEW JERSEY

DOCKET NO. TE08020078

SERVICE LIST

1. Petitioner's Contact Person:

Kade Ross
Chief Operating Officer
Bandwidth.com CLEC, LLC
4001 Weston Parkway
Suite 100
Cary, NC 27513

4. Public Advocate:

Kimberly Holmes, Esquire
Acting Director, Division of Rate Counsel
Department of Public Advocate
31 Clinton Street, 11th floor
P. O. Box 46005
Newark, New Jersey 07101

2. Petitioner's Attorney:

Richard P. De Angelis, Jr., Esq.
Stryker Tams & Dill LLP
Attorneys At Law
Two Penn Plaza East
Newark, New Jersey 07105

5. Deputy Attorney General:

Arlene Pasko, DAG
Department of Law & Public Safety
Division of Law
124 Halsey Street, 5th Floor
P. O. Box 45029
Newark, New Jersey 07102

3. Board's Staff:

Dennis Moran
Director, Division of Audits
Board of Public Utilities
Two Gateway Center, 9th Floor
Newark, New Jersey 07102

6. Board's Staff:

Anthony Centrella
Director, Division of Telecommunications
Board of Public Utilities
Two Gateway Center, 8th Floor
Newark, New Jersey 07102



PUBLIC SERVICE COMMISSION



CPCN: Certificate of Public Convenience and Necessity

Preface

The following information has been prepared by the staff of the Department of Public Service in order to assist you in applying for a Certificate of Public Convenience and Necessity. Although it is intended to be self-explanatory, the Department's staff is available to answer any questions that might arise. Please address your inquiries to Office of Telecommunications, NYS Department of Public Service, Three Empire State Plaza, Albany, NY 12223-1350, or call the Office of Telecommunications at 518-474-4500.

What is a Certificate of Public Convenience and Necessity?

Pursuant to Section 99 of New York State Public Service Law, firms seeking to offer telephone services in New York State for a fee must obtain a Certificate of Public Convenience & Necessity (CPCN) from the Public Service Commission (PSC) before constructing facilities and/or offering telecommunications services to the public for hire.

Who Does it Apply to?

The statute applies to providers of local exchange (dial tone), long distance, alternative operator, and other types of telephone services, whether they utilize their own facilities or resell the services of other telephone companies. Providers of cellular telephone service or providers of telephone service by means of customer-owned or leased, currency or credit card operated telephones (COCOTs), and motels, hotels or hospitals are not required to obtain a CPCN from the PSC.

Types of CPCNs

In executing its statutory responsibility, the Commission has adopted certain procedures governing certifications. Under these procedures, a firm may apply to operate as a common carrier or as a reseller. A common carrier is an entity that provides telephone service by constructing and operating its own facilities for the switching and/or transmission of telecommunications between exchanges. A reseller is an entity that subscribes to telecommunications services and/or facilities of another common carrier or another reseller and reoffers those services to the public for hire. Firms certified as common carriers are authorized to provide telephone service via their own facilities, via a mix of their own facilities and resale, or through resale only. Firms certified as resellers are only authorized to provide services through resale.

A firm that wants to operate only as a reseller should apply for certification as a reseller. If a firm wants to begin operations as a reseller and become a facilities-based common carrier later on, it might be advantageous to apply for certification as a facilities-based common carrier. The firm would then be able to operate as a reseller (subject to having an effective tariff on file with the Commission) and be able to transition to facilities-based common carriage later

DDM 000477

on, without having to obtain additional authority from the Commission.

How to Apply for a CPCN

[About Us](#) | [Site Map](#) |
[Privacy Policy](#) | [Website](#)
[Disclaimer](#) | [Contact Us](#) |
[Accessibility](#)

There are two application forms. [Application Form A](#) applies to companies seeking certification as a common carrier. [Application Form B](#) applies to companies seeking certification as resellers as well as to alternative operator service providers without the authority to process "0-" calls. These forms specify the information that applicants are required to provide pursuant to Section 99 of Public Service Law and the Commission's own certification rules and requirements. You should be aware that a separate certification process is prescribed for companies intending to provide operator-assisted communications services by means of human or automated call intervention and intending to receive direct routing of "0-" calls, such as for emergency purposes. Such companies need to provide additional information designed to demonstrate that they are qualified to handle emergency calls promptly and reliably, in accordance with the requirements of section 649.6 NYCRR.

When we receive your application, it will be reviewed for completeness. If the application is not complete, it may be returned to you with the missing information noted. You may resubmit the application at any time.

Electronic Tariff System

No paper copy is needed for submission when using the Electronic Tariff System. In an effort to maintain a greener environment, reduce paper consumption and to make tariffs more readily available to the public, companies are strongly encouraged to file tariffs using our Electronic Tariff System. [More information](#)

Tariffs

Along with your application for certification, ***you must also file a tariff*** containing the terms, conditions and provisions of the services to be offered for approval prior to providing service. As an aid to new companies seeking certification as a reseller, the Commission has a [model retail tariff](#) for local exchange services. The Commission also has a [model retail tariff](#) and [model access tariff](#) for companies seeking certification as a common carrier. In addition, common carriers must have an approved interconnection tariff or interconnection agreement before they can begin providing service. The model tariffs are meant to help you organize and structure your tariff and not intended to specify or limit what services you offer.

Be advised that, without a completed tariff submitted ***WITH*** your application for a CPCN, your application ***WILL NOT*** be approved.

When you file your initial tariff, there should be a spread of at least 90 days between the issue date of the tariff and its effective date. The issue date of the tariff should be the date it is received by the Commission or any date soon thereafter. If provisions in your proposed tariff do not comport with Commission requirements, revisions will be required before the tariff can take effect.

Post Certification Process

The applicant will be notified in writing when the certification is granted. Notification will also be given of the approval and effective date of the initial

tariff.

©2010 NYS Department
of Public Service

The applicant may not begin to offer telephone service until certification has been granted and its tariffs have been authorized to become effective. At that point, it is subject to and must comply with all pertinent Commission rules and regulations governing telephone companies. All carriers are required to file various reports with the Commission; refer to [Report Filing Requirements](#) for assistance.

**Ensuring Safe,
Reliable Service and
Reasonable, Just
Rates since 1907**

This page last modified 08/05/10 09:04:44 AM



PUBLIC SERVICE COMMISSION



Certification as a Common Carrier - Application Form A

Complete this application to the best of your knowledge. Any inaccuracies or deficiencies will be promptly corrected or the application may be returned. The applicant must sign and date the application before mailing it along with the initial tariff to: Jaclyn A. Brillling, Secretary to the Commission, Three Empire State Plaza, Albany, NY 12223-1350. If this application is granted, the company must comply with all applicable rules and regulations of the Public Service Commission.

1. Identification of applicant and principal business office:
 - Company Name
 - Street Address (P.O. Box is *not* acceptable)
 - City, State, Zip Code
 - President and Telephone/Fax
 - Other Officers and Telephone/Fax

2. Provide the following [Telecommunications Carrier Critical Information Form](#).

3. Provide a copy of the company's certificate of incorporation and, if not incorporated in New York State, a copy of the authority to transact business in New York State (foreign business authority). If not incorporated, attach a list of the names, addresses, and telephone numbers of the company's owners.

4. Include a general description of the services to be offered and how it would enhance competition in the area to be served.

5. Include a description of the plant and system to be constructed and the anticipated construction schedule.

6. Include a statement as to whether the company has ever acquired a customer by switching it from another company without the customer's authorization. If the company has ever acquired a customer by switching it from another company without the customer's authorization, please provide an explanation.

7. Include a statement as to whether the company was ever the subject of a complaint and/or investigation for unauthorized switching of a customer's local or long distance service from one carrier to another. If the company was ever the subject of a complaint and/or investigation for unauthorized switching of a customer's local or long distance service from one carrier to another, please provide an explanation.

8. Provide your company's Federal Social Security Account Number and/or Federal Employer Identification Number.

9. If applying for authorization to provide local exchange service (residential and/or business dialtone), describe how your company will

DDM 000480

provide access to public safety/emergency telephone services, access to the statewide relay system and lifeline service. In addition, the applicant must comply with the requirements enumerated on [pages 30-31](#) of the Commission's Order in Case 94-C-0095, issued May 22, 1996. The Commission will entertain waivers of any of these specific requirements only on a case-by-case basis. Please describe briefly how you plan to comply with these requirements. If you do not plan to provide local exchange services, please state so.

[About Us](#) | [Site Map](#) |
[Privacy Policy](#) | [Website
Disclaimer](#) | [Contact Us](#) |
[Accessibility](#)

10. If applying for authorization to provide local exchange service (residential and/or business dialtone), indicate whether your company will have "0-" emergency calls processed by the ILEC or other "0-" certified operator services provider, or intends to file a subsequent petition for "0-" certification of its own.

11. If applying for authorization to provide local exchange service (residential and/or business dialtone), include an intraLATA presubscription implementation plan.

12. If applying for authorization to provide facilities based local exchange services (residential and/or business dialtone), your company is expected to comply with the Commission's Network Reliability Orders. On July 28, 2004, the Commission issued an order, in Case 03-C-0922 - [Proceeding on Motion of the Commission to Examine Telephone Network Reliability](#), addressing such items as Telecommunications Service Priority (TSP) rates and procedures, dual cable entrance facilities and a show cause requirement concerning route diversity and a new service, Critical Facilities Administration Service. A second order, re-addressing Telephone Network Reliability, was issued on *June 15, 2005*. In your application, please describe how your company will undertake to comply with these Commission pronouncements. If you do not plan to provide facilities based local exchange services, please state so.

©2010 NYS Department of Public Service

Ensuring Safe, Reliable Service and Reasonable, Just Rates since 1907

This page last modified 08/05/10 09:04:20 AM

DDM 000481



PUBLIC SERVICE COMMISSION



Application Form B for Certification as a Reseller

Complete this application to the best of your knowledge. Any inaccuracies or deficiencies will be promptly corrected or the application may be returned. The applicant must sign and date the application before mailing it along with the initial tariff to: Jaclyn A. Brillling, Secretary to the Commission, Three Empire State Plaza, Albany, NY 12223-1350. If this application is granted, the company must comply with all applicable rules and regulations of the Public Service Commission.

1. Identification of applicant and principal business office:
 - Company Name
 - Street Address (P.O. Box is *not* acceptable)
 - City, State, Zip Code
 - President and Telephone/Fax
 - Other Officers and Telephone/Fax

2. Provide the following [Telecommunications Carrier Critical Information Form](#).

3. Provide a copy of the company's certificate of incorporation and, if not incorporated in New York State, a copy of the authority to transact business in New York State (foreign business authority). If not incorporated, attach a list of the names, addresses, and telephone numbers of the company's owners.

4. Include a general description of the services to be offered and how it would enhance competition in the area to be served.

5. If applying for authorization to resell local exchange service (residential and/or business dial tone) the applicant must comply with the requirements enumerated on [pages 30-31](#) of the Commission's Order in Case 94-C-0095, issued May 22, 1996. Please describe briefly how you plan to comply with these requirements. If you do not plan to resell local exchange services, please state so.

6. A statement identifying whether the company has ever acquired a customer by switching it from another company without the customer's authorization? If so, please provide an explanation.

7. A statement identifying whether the company was ever the subject of a complaint and/or investigation for unauthorized switching of a customer's local or long distance service from one carrier to another? If so, please provide an explanation.

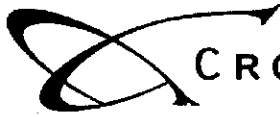
8. Federal Social Security Account Number and/or Federal Employer Identification Number.

[About Us](#) | [Site Map](#) | [Privacy Policy](#) | [Website Disclaimer](#) | [Contact Us](#) | [Accessibility](#)

©2010 NYS Department of Public Service

Ensuring Safe, Reliable Service and Reasonable, Just Rates since 1907

This page last modified 08/05/10 09:04:20 AM



CROCKER & CROCKER, P.C.

ATTORNEYS AT LAW

2010 MAR 25 AM 10:02

PATRICK D. CROCKER
patrick@crockerlawfirm.com

March 23, 2010

Jaclyn Brilling
Secretary of the Commission
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: Guycom Telecom Corp.

Dear Ms. Brilling:

Enclosed herewith for filing with the Commission, please find an original of the above captioned corporation's APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE ALL FORMS OF TELECOMMUNICATIONS INCLUDING RESOLD AND FACILITIES-BASED LOCAL EXCHANGE SERVICES TO THE PUBLIC with the State of New York.

Also enclosed is a duplicate copy of this letter. Please stamp the duplicate and return it to me in the postage-paid envelope attached thereto.

Should you have any questions, please contact the undersigned.

Very truly yours,

CROCKER & CROCKER, P.C.


Patrick D. Crocker

PDC/pas

The Kalamazoo Building 107 West Michigan Avenue, Fourth Floor Kalamazoo, Michigan 49007

T 269.381.8893 F 269.381.4855

DDM 000484

**NEW YORK STATE
PUBLIC SERVICE COMMISSION**

IN THE MATTER OF THE)
APPLICATION OF)
GUYCOM TELECOM CORP.)
FOR A CERTIFICATE OF PUBLIC) CASE NO. _____
CONVENIENCE AND NECESSITY TO)
PROVIDE ALL FORMS OF)
TELECOMMUNICATIONS INCLUDING)
RESOLD AND FACILITIES-BASED)
LOCAL EXCHANGE AND)
INTEREXCHANGE SERVICES)
IN THE STATE OF NEW YORK)

CROCKER & CROCKER, P.C.
Patrick D. Crocker
Attorneys for Applicant
The Kalamazoo Building
107 W. Michigan Avenue, 4th Floor
Kalamazoo, MI 49007
Telephone: (269) 381-8893
Facsimile: (269) 381-4855
Email: patrick@crockerlawfirm.com

**APPLICATION FOR A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY**

Guycom Telecom Corp. ("Applicant"), by and through its attorneys CROCKER & CROCKER, P.C., and pursuant to Title 16 of the Official Compilation of Codes, Rules and Regulations of the State of New York, Chapter I, Subchapter C, Article 2, Part 21.7 and Chapter VI Subchapter D, Part 649.1, hereby petitions the State of New York Department of Public Service ("DPS") for the issuance of a Certificate of Public Convenience and Necessity authorizing Applicant to provide all forms of telecommunications services, including resold and facilities-based local exchange and interexchange services within the State of New York.

The following information is provided in support of this Application:

1. Identification of Applicant and principal business office:

Guycom Telecom Corp.
115-49 118th Street
South Ozone Park, NY 11420
Telephone: (718) 323-6700
Facsimile: (718) 521-4469

Applicant's President can be reached through the telephone and facsimile numbers listed above.

Identification of person responsible for responding to consumer complaints referred to the company by the Commission or its staff:

Krishna Singh
Guycom Telecom Corp.
115-49 118th Street
South Ozone Park, NY 11420
Telephone: (718) 323-6700
Facsimile: (718) 521-4469

2. Attached as **Exhibit A** please find the above captioned company's Telecommunications Company Critical Information Form.

3. Applicant is a corporation incorporated under the laws of the State of New York. A copy of the qualifying document is attached hereto as **Exhibit B**.

4. Applicant seeks to provide all forms of telecommunications services, including, twenty-four hour per day competitive long distance service, facilities-based and resold local exchange telecommunication services from certain points of origin in New York to destinations points in New York.

Applicant will provide services to business and residential customers and will enable end users to achieve discounts once reserved for the largest consumers.

Applicant submits the following reasons in support of its belief that the public interest will be served by the approval of this Application:

A. Applicant's proposed service will use existing telecommunications facilities more efficiently; and

B. The principal of competition within the New York telecommunications market will bring long term benefits to the New York end users, including, but not limited to, the following:

- (i) Expanded market coverage enriched by existing carrier sales forces;
- (ii) High quality alternative telecommunications services;
- (iii) Increased consumer choices and billing options;
- (iv) Efficient use of existing telecommunications resources as well as increased diversification and reliability of the supply of the telecommunications services;
- (v) An expanded telecommunications industry in New York with attendant employment opportunities for New York residents; and,
- (vi) An additional tax revenue source for the State of New York.

5. Applicant intends to provide the proposed services either using the services and facilities of other facilities-based carriers and/or, where economical, by obtaining access to the Unbundled Network Elements ("UNE") of the incumbent local exchange carrier. In both scenarios, Applicant intends to provide service in a manner that will not require the Company to construct facilities or lay lines, thereby avoiding the capital intensive investments normally associated with the provision of facilities-based service.

6. Applicant has no "slamming" complaints filed against it with any state or federal regulatory agency.

7. Applicant has never been the subject of a complaint and/or investigation for unauthorized switching of a customer's local or long distance service from one carrier to another.

8. Applicant's Federal Employer Identification Number is 27-1746510.

9. Applicant will contract with the incumbent local exchange carrier to provide access to public safety/emergency telephone services, access to the statewide relay system and lifeline service.

10. Applicant will have "0" emergency calls processed by the incumbent local exchange carrier or other certified operator services provider.

11. Applicant attaches an intraLATA presubscription implementation plan as **Exhibit C**.

12. Applicant will undertake to comply with Commission pronouncements on Case 03-C-0922 Proceeding on Motion of the Commission to Examine Telephone Network Reliability.

13. Applicant submits a retail tariff, rate schedule and access tariff setting forth its rules and regulations as **Exhibit D**.

14. Applicant is currently prepared to provide the service for which it seeks authority herein. Accordingly, Applicant requests an expedited consideration of this Application.

WHEREFORE, Guycom Telecom Corp., respectfully requests that the New York State Public Service Commission:

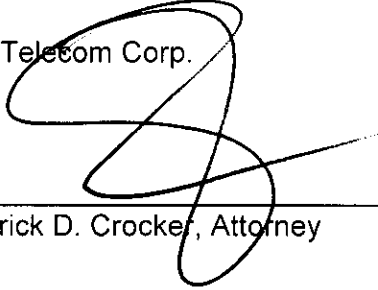
(a) Grant Applicant a Certificate of Public Convenience and Necessity to provide all forms of competitive telecommunication services, including facilities-based and resold local exchange within the State of New York; and,

(b) Grant such other relief that the PSC deems just and equitable under the circumstances.

Respectfully submitted this 23rd day of March, 2010

Guycom Telecom Corp.

By



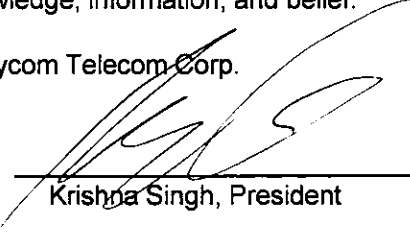
Patrick D. Crocker, Attorney

VERIFICATION

Krishna Singh, President of Guycom Telecom Corp., first being duly sworn on oath, deposes and says that he has read the foregoing Application and verifies that the statements made therein are true and correct to the best of his knowledge, information, and belief.

Guycom Telecom Corp.

By: _____


Krishna Singh, President

The foregoing instrument was acknowledged before me this 3RD day of MARCH 2010
by Krishna Singh.



NOTARY PUBLIC:

IRFAAN ALLY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01AL6141281
Qualified in Queens County
My Commission Expires February 21, 2014

IRFAAN ALLY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01AL6141281
Qualified in Queens County
My Commission Expires February 21, 2014

EXHIBIT B

Articles of Incorporation

FILING RECEIPT

=====

ENTITY NAME: GUYCOM TELECOM CORP.

DOCUMENT TYPE: INCORPORATION (DOM. BUSINESS)

COUNTY: QJEE

=====

FILED:01/20/2010 DURATION:PERPETUAL CASH#:100120000835 FILM #:100120000771

FILER:

EXIST DATE

BLUMBERGEXCELSIOR CORPORATE
SERVICES, INC.
52 SOUTH PEARL STREET, 2ND FLOOR
ALBANY, NY 12207

01/20/2010

ADDRESS FOR PROCESS:

THE CORPORATION
115-49 118TH STREET
SOUTH OZONE PARK, NY 11420

REGISTERED AGENT:

STOCK: 200 NPV

=====

SERVICE COMPANY: BLUMBERG/EXCELSIOR CORPORATE SERVICES SERVICE CODE: 39 *

FEES	160.00	PAYMENTS	160.00
	-----		-----
FILING	125.00	CASH	0.00
TAX	10.00	CHECK	0.00
CERT	0.00	CHARGE	0.00
COPIES	0.00	DRAWDOWN	160.00
HANDLING	25.00	OPAL	0.00
		REFUND	0.00

=====

DOS-1025 (04/2007)

CERTIFICATE OF INCORPORATION

OF

GUYCOM TELECOM CORP.

Pursuant to Section 402 of the Business Corporation Law

I, the undersigned, a natural person of at least 18 years of age, for the purpose of forming a corporation under Section 402 of the Business Corporation Law of the State of New York hereby certify:

FIRST: The name of the corporation is:

GUYCOM TELECOM CORP.

SECOND: The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under Article IV of the Business Corporation Law, except that it is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency or other body without such consent or approval first being obtained.

THIRD: The office of the corporation is to be located in the County of **QUEENS**, State of New York.

FOURTH: The aggregate number of shares which the corporation shall have the authority to issue is **TWO HUNDRED**, each of which shall be common stock with no par value.

FIFTH: The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is:

**THE CORPORATION
115-49 118TH STREET
SOUTH OZONE PARK, NY 11420**

SIXTH: No director of the corporation shall have personal liability to the corporation or to its shareholders for damages for any breach of duty in such capacity, provided, however, that the provision shall not eliminate or limit:

(a) the liability of any director of the corporation if a judgment or other final adjudication adverse to him establishes that his acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that he personally gained in fact a financial profit or other advantage to which he was not legally entitled or, with respect to any director of the corporation, that his acts violated Section 719 of the Business Corporation Law of the State of New York, or

(b) the liability of a director for any act or omission prior to the final adoption of this article.

SEVENTH: The holders of any of the corporation's equity shares shall be entitled to preemptive rights in accordance with the provisions of BCL section 622.

IN WITNESS WHEREOF, the undersigned incorporator has executed this certificate of incorporation.

1/20/10



Sharon Babala, Incorporator
BlumbergExcelsior Corporate
Services, Inc.
52 South Pearl Street
Albany, New York 12207

Certificate of Incorporation

of

GUYCOM TELECOM CORP.

Pursuant to Section 402 of the Business Corporation Law

**BLU-39
DRAW DOWN**

Filed By:
BlumbergExcelsior Corporate Services, Inc.
52 South Pearl Street, 2nd Floor
Albany, NY 12207

CERTIFICATE OF INCORPORATOR'S ACTION

OF

GUYCOM TELECOM CORP.

The undersigned, being the sole incorporator of the Corporation, hereby consents, to, certifies and has taken the following action:

1. By-laws in the form annexed to this certificate are adopted as the by-laws of the Corporation.
2. The following persons, each of whom has previously indicated willingness to serve, are elected directors to the Corporation.

IN WITNESS WHEREOF, I have subscribed this certificate on the date filed.



Sharon Babala
Incorporator

EXHIBIT C

Proposed Plan for Providing Toll Dialing Parity

GUYCOM TELECOM CORP.
PROPOSED PLAN FOR PROVIDING TOLL DIALING PARITY

INTRODUCTION

Section 251(b)(3) of the Telecommunications Act of 1996 (the "Act"), 47 USC '251(b)(3), requires each local exchange carrier ("LEC") to provide dialing parity to competing providers of telephone exchange service and telephone toll services. In order to ensure that each LEC is providing toll dialing parity, the Federal Communications Commission's ("FCC") regulations implementing the ACT, 48 CFR '52.213, require each LEC to file a plan for providing toll dialing parity with the state Commission or the FCC. Guycom Telecom Corp ("GTC") hereby files, for review by the New York State Public Service Commission ("Commission") its Proposed Plan for Providing Toll Dialing Parity.

TOLL DIALING PARITY PLAN

Technical Implementation

GTC will be offering dialing parity for all toll calls. Each customer requesting GTC local exchange service will be given the opportunity to affirmatively select a presubscribed carrier for intraLATA toll and interexchange toll calls. GTC intends to utilize the underlying carrier's 2-PIC capabilities. This allows a customer to presubscribe to a preferred carrier for intraLATA toll calls and the same or different carrier for interLATA toll calls.

Business Office Practices

GTC will ensure that all customers are aware they have a choice of intraLATA, as well as interLATA toll carriers. In response to each request for GTC service, a GTC sales representative will inform the customer that GTC will presubscribe the customer's toll service to both the intraLATA and the interLATA toll carrier(s) of the customer's choice. In this way, the customer knows that a choice can be made among intraLATA and interLATA toll carriers. A representative will inform the customer that GTC will presubscribe the customer's toll service to

both the intraLATA and interLATA toll carrier(s) of the customer's choice. In this way, the customer knows that a choice can be made among intraLATA and interLATA toll carriers. All carriers will be treated on a non-discriminatory basis and each customer will be given the opportunity to affirmatively select an intraLATA and interLATA toll carrier. GTC will maintain a list of available toll carriers and keep it updated. GTC will process a customer's PIC charge to a toll carrier other than GTC in the same fashion and in the same time frames as a request to presubscribe to itself. Once a GTC customer has chosen an intraLATA and interLATA toll carrier, the customer will be able to verify that selection at any time by dialing a toll free number. If a new customer does not select a service package that includes *[underlying carrier's]* long distance service, the customer's long distance service will not default to *[underlying carrier]*. Customers will have access on a nondiscriminatory basis to telephone numbers, operator services, directory assistance, and directory listings. GTC does not have a PIC change charge waiver period at this time.

In responding to a communication from another intraLATA and interLATA telecommunications carrier, GTC's customer care representative will use an industry-standard Customer Account Record ("CARE") format to accept the required change. Such changes will be implemented only through a CARE request to ensure that changes are not made without appropriate authorization. Other carriers may submit a CARE request of GTC either manually or electronically.

Anti-Slamming

GTC will comply with the FCC's anti-slamming provisions, 47 CFR ' 64-110-150. GTC will make available a PIC-freeze option to requesting customers to protect the customer from unauthorized changes to its selected intraLATA and interLATA toll carrier.

Dialing Plan

The following matrix outlines the proposed routing of calls by *[underlying carrier]*.

0	GTC local Operator Service
00	Dial to presubscribed Toll Provider Operator Service
1+10 digits	Dial to presubscribed intraLATA Toll Provider or interLATA Toll Provider Operator Service (depending on 10 digit number dialed).
10xxx or 101xxx+0	Dial around presubscribed intraLATA or interLATA Toll Provider to alternate Toll Provider Operator Service identified by code used by xxx or xxix portion of dialing request).
10xxx or 101xxxx+0+10 digits	Dial around presubscribed intraLATA or interLATA Toll Provider to alternate Toll Provider Operator Service (identified by code used in xxx or xxix portion of dialing request).
10xxx or 101xxxx+1+10 digits	Dial around presubscribed intraLATA or interLATA Toll Provider to direct dial through alternate Toll Provider (identified by code used in xxx or xxix portion of dialing request).

Applicability

This plan for providing dialing parity is intended to apply to all dial tone lines provisioned by GTC. GTC will comply with all rules of the FCC and the Commission.

Conclusion

GTC respectfully requests that the Commission approve its proposed plan for providing toll-dialing parity.



PUBLIC SERVICE COMMISSION



94-C-0095: Other Local Exchange Carrier Requirements

Opinion No. 96-13 Pages 30-31

All local service providers will be required to define their service territories, provide access to emergency services, and comply with our consumer protection rules. New entrants, however, will not be required to provide any particular services, though the choice to provide basic services and Lifeline may affect a carrier's ability to receive funding assistance and the terms of its intercarrier compensation.

Our order instituting this proceeding identified "interim" requirements applicable to all local exchange carriers. These requirements encompass consumer and public interest protections and make clear the characteristics that further distinguish local exchange carriers from other telephone corporations:

- a) A local exchange carrier must file tariffs to provide local exchange service (a subscriber's initial access to the "public switched network") within a geographic area or areas defined by the carrier and filed with the Commission.
- b) As a provider of local exchange service, a local exchange carrier must:
 - i) provide, without undue discrimination or preference, service to any willing customer within the carrier's defined service territory;
 - ii) contribute to the Targeted Accessibility Fund (TAF) which funds programs such as Lifeline, safety/emergency services (911, E911, 0-), and Telecommunications Relay Service (TRS) for the hearing impaired;
 - iii) comply with the Telephone Fair Practices rules (16 NYCRR Part 609, et. seq.);
 - iv) comply with the Common Carrier rules (16 NYCRR Part 605);
 - v) comply with our Statement of Policy on Privacy in Telecommunications (Case 90-C-0075, issued March 22, 1991);
 - vi) comply with our Open Network Architecture (ONA) principles (Case 88-C-004, Opinion No. 89-28, issued September 11, 1989);
 - vii) provide reasonable interconnections for the joint provision of service to any certified carrier requesting such interconnection;
 - viii) comply with our service quality standards and infrastructure monitoring requirements (16 NYCRR, Parts 603 and 644.3).
- c) All providers of local exchange service will be entitled to:

- i) comparable access to number resources;
- ii) comparable access to and inclusion in the local exchange routing guide;
- iii) reasonable access to customer information of other carriers necessary for billing and for the provision of directory listing and assistance services;
- iv) participation in intercarrier compensation agreements.

[About Us](#) | [Site Map](#) |
[Privacy Policy](#) | [Website](#)
[Disclaimer](#) | [Contact Us](#) |
[Accessibility](#)

©2010 NYS Department of Public Service

Ensuring Safe, Reliable Service and Reasonable, Just Rates since 1907

This page last modified 08/05/10 09:04:01 AM

§ 91. Adequate service; just and reasonable charges; unjust discrimination; unreasonable preference; protection of privacy. 1. Every telegraph corporation and every telephone corporation shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. All charges made or demanded by any telegraph corporation or telephone corporation for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order of the commission. Every unjust or unreasonable charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order of the commission is prohibited and declared to be unlawful.

2. (a) No telegraph corporation or telephone corporation shall directly or indirectly or by any special rate, rebate, drawback or other device or method charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered with respect to communication by telegraph or telephone or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to communication by telegraph or telephone under the same or substantially the same circumstances and conditions.

(b) The local service area within which calls are made on a local rather than toll basis in a city with a population of one million or more shall not be changed as a result of the establishment of an additional area code.

3. No telegraph corporation or telephone corporation shall make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

4. Nothing in this chapter shall be construed to prevent any telegraph corporation or telephone corporation from continuing to furnish the use of its lines, equipment or service under any contract or contracts in force at the date this article takes effect or upon the taking effect of any schedule or schedules of rates subsequently filed with the commission, as hereinafter provided, at the rate or rates fixed in such contract or contracts; provided, however, that when any such contract or contracts are or become terminable by notice, the commission shall have power, in its discretion, to direct by order that such contract or contracts shall be terminated by the telegraph corporation or telephone corporation party thereto, and thereupon such contract or contracts shall be terminated by such telegraph corporation or telephone corporation as and when directed by such order.

5. No telegraph corporation or telephone corporation shall sell or offer for sale any names and/or addresses of any of its customers whose listings have been omitted from the telephone company's published directory at the request of the customer.

6. (a) Every local exchange telephone corporation shall include in any directory of telephone numbers it or an affiliated company publishes for general distribution an alphabetical list of interexchange carriers with their federal communications commission assigned identification codes which may be used by the subscribers listed in such directory to access any telephone corporation that originates interexchange service in the local exchange telephone corporation's service area and that agrees to publication of its access code in such directory.

(b) Each interexchange carrier shall be responsible for providing its own identification codes, sorted by geographic area serviced by the

individual directories published by each local exchange company or its affiliate. Further, the identification codes for each directory shall be delivered to the local exchange carrier or its affiliate in compliance with the established directory printing closing dates. Those interexchange carriers wishing to be listed in the directory shall bear full responsibility for the accuracy and completeness of the list of their identification codes.

(c) Local exchange telephone corporations and their affiliates shall not be exposed to any greater liability for their failure to include such carrier identification codes in their directories than is present in the provisions of filed and approved tariffs dealing with directory listing errors and omissions.

* 7. Every local exchange telephone corporation, as defined in this chapter shall, at its option: (a) allow a customer to use a modified or alternative name for a directory listing or (b) waive the otherwise applicable charges for a non-published telephone listing, where the customer requests protection of its identity in connection with the customer's purchase of telephone service and the customer is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, and for whose benefit any order of protection, other than a temporary order of protection, has been issued by a court of competent jurisdiction. This waiver of charges shall be for the duration of the applicable, non-temporary, order. Any non-published listings provided in this subdivision shall conform to all the same requirements of other non-published listings. A customer requesting such an accommodation shall provide a copy of the order of protection to the applicable telephone provider.

* NB Effective December 11, 2010

§ 99. Franchises and privileges. 1. No telegraph corporation or telephone corporation hereafter formed shall begin construction of its telegraph line or telephone line without first having obtained the permission and approval of the commission and its certificate of public convenience and necessity and the required consent of the proper municipal authorities. Notwithstanding the foregoing, any such certificate shall be deemed to be granted by the commission ninety days after such corporation applies to the commission for a certificate, unless the commission, or its designee, determines within such ninety day period that the public interest requires the commission's review and its written order.

2. No franchise nor any right to or under any franchise to own or operate a telegraph line or telephone line shall be assigned, transferred or leased, nor shall any contract or agreement hereafter made with reference to or affecting any such franchise or right be valid or of any force or effect whatsoever, unless the assignment, transfer, lease, contract or agreement shall have been approved by the commission. No telephone corporation shall transfer or lease its works or system or any part of such works or system to any other person or corporation or contract for the operation of its works or system, without the written consent of the commission. Notwithstanding the foregoing, any such transfer or lease between affiliated corporations with an original cost of (a) less than one hundred thousand dollars proposed by a telephone corporation having annual gross revenues in excess of two hundred million dollars, (b) less than twenty-five thousand dollars proposed by a telephone corporation having annual gross revenues of less than two hundred million but more than ten million dollars or (c) less than ten thousand dollars proposed by a telephone corporation having annual gross revenues of less than ten million dollars and any other transfer or lease between non-affiliates regardless of cost shall be effective without the commission's written consent within ninety days after such corporation notifies the commission that it plans to complete such transfer or lease and submits a description of the transfer or lease, unless the commission, or its designee, determines within such ninety days that the public interest requires the commission's review and written consent.

3. The approval of the commission to the exercise of a franchise or to the assignment, transfer or lease of a franchise shall not be construed to revive or validate any lapsed or invalid franchise or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture.

**APPLICATION FOR A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY TO OFFER
LOCAL EXCHANGE AND EXCHANGE ACCESS
TELECOMMUNICATIONS SERVICE
AS A COMPETING LOCAL PROVIDER**

To Be Completed by Chief Clerk:

DOCKET No. P-_____, Sub _____

Filing Fee Received \$ _____

Note: To apply for a Competing Local Provider (CLP) Certificate, Applicant must submit a filing fee of \$250.00, payable to N.C. Department of Commerce/Utilities Commission, and the typed original and 9 copies of this document to the North Carolina Utilities Commission at the following address:

Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

The application must be properly completed and correctly verified. If it is not, a copy of the application will be returned to the Applicant, and the application will not be further processed. If the Applicant wishes to continue with the certification process, a correct application must be resubmitted with a new filing fee. The original filing fee will not be returned.

A copy of the completed application must be served on each incumbent Local Exchange Company (LEC) in North Carolina. A service list may be obtained from the Chief Clerk.

Any information which the Applicant claims is “confidential” or constitutes a “trade secret” should be clearly marked as such and filed under “SEAL.” Two copies of the confidential information should be provided.

Falsification of or failure to disclose any information in this application for certification may be grounds for denial of or delay in the award of the certificate requested.

The undersigned certifies to the North Carolina Utilities Commission as follows:

NAME AND CONTACTS

1. **APPLICANT**

(NAME)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(d/b/a NAME(S))

FOR: QUESTIONS ON THE APPLICATION

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER) (FACSIMILE NUMBER)

FOR: GENERAL REGULATORY MATTERS

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE))

(EMAIL ADDRESS)

(TELEPHONE NUMBER) (FACSIMILE NUMBER)

FOR: COMPLAINT INQUIRIES BY COMMISSION

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: REGULATORY FEE PAYMENT

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: RESPONSIBILITY FOR NORTH CAROLINA OPERATIONS

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: CONTACT BY POTENTIAL RESIDENTIAL SUBSCRIBERS

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: CONTACT BY POTENTIAL BUSINESS SUBSCRIBERS (IF DIFFERENT FROM RESIDENTIAL)

(NAME- PRINTED OR TYPED)

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

FOR: BILLING FOR PSP LINES AND PSP NOTICE REQUIREMENTS

Complete only if the Applicant intends to provide pay telephone service as a Payphone Service Provider (PSP). Provide the information to be used by the serving CLP or local exchange company (LEC) in billing for PSP lines or trunks and by the Applicant in meeting PSP notice requirements:

((NAME- PRINTED OR TYPED))

(PHYSICAL ADDRESS - STREET, SUITE NUMBER, CITY, STATE, ZIP)

(MAILING ADDRESS - IF DIFFERENT FROM ABOVE)

(EMAIL ADDRESS)

(TELEPHONE NUMBER)

(FACSIMILE NUMBER)

IDENTITY AND BUSINESS STRUCTURE

2. Type of Organization: (Check as appropriate)

LLC ___ Individual (sole proprietor)
Partnership ___ Limited Partnership (LP)
Corporation ___ Public ___ Private ___ S ___ C

Other: Please Specify

3. Provide the information as specified below for the specific type of organization identified in Item 2.

- a) If a limited liability company, attach a copy of the articles of organization and the operating agreement, marked **Exhibit A**. Also attach a list of members, marked **Exhibit B**. If Applicant was not organized in North Carolina, attach a copy of the certificate of authority to do business in North Carolina, issued by the Secretary of State, marked **Exhibit C**.
- b) If a partnership or limited partnership, attach a copy of the partnership agreement, marked **Exhibit A**. Also attach a list of partners and officers and the percentage of equity interest of each, marked **Exhibit B**, and give names, positions and addresses of the principal officers.
- c) If a corporation, attach copy of the articles of incorporation and all amendments, if any, marked **Exhibit A**. Also attach a list of all directors and principal stockholders with the number of shares held by each, marked **Exhibit B**, and give names, positions and addresses of the principal corporate officers.
- d) If a corporation, state and date of incorporation: State: ___ Date: _____. If Applicant was not organized in North Carolina, attach a copy of the certificate of authority to do business in North Carolina, issued by the Secretary of State, marked **Exhibit C**.

4. If an office is not maintained in North Carolina, please provide the name and address of Applicant's agent for service of process in North Carolina.

5. If any individuals, directors, partners, officers, or members are affiliated with (i.e., own at least a 10% interest in or serve as directors, partners, or members of) any other telecommunications company, provide, as **Exhibit D**, a list of the company(ies) and a description of the affiliation.

6. If the Applicant has a parent, affiliate(s) or subsidiary(ies), provide an organizational chart as **Exhibit E** which identifies each entity and its relationship to the Applicant.

FINANCIAL CAPABILITY

7. Provide an SEC 10K or audited financial statements for the most recent twelve months, marked as **Exhibit F**. If neither is available, provide Items (a) and (b) below. Item (c) must be provided if the Applicant is relying on a parent company or equity partner for its financial resources.
 - a) Provide a current Balance Sheet, marked as **Exhibit F**.
 - b) Provide an Income Statement, marked as **Exhibit F**, reflecting current and prior year balances for the twelve months ended as of the date of the Balance Sheet, or, if more readily available, for the period since the close of the preceding calendar year.
 - c) Provide the parent company's or equity partner's financial information as listed in this item (SEC 10K or audited financial information; or balance sheet and income statement), marked as **Exhibit F1** or **Exhibit F2** and **F3**, respectively, and a letter of commitment, marked as **Exhibit F4**, signed by an officer of the parent company or equity partner.
8. If the information in Item 7 is not available, please provide the information below. Applicants may file the appropriate portions of their plans and forecasts if they are sufficiently similar to the items below rather than generating new documents.
 - a) Annual projected income statement and statement of projected cash flows for each year until net cash is provided by the operating activities of the applicant or three years, whichever period is longer, as **Exhibit G1**.
 - b) Detailed description of the assumptions for each item reflected in the projected income statement and cash flow statement. The description should provide information on key assumptions, including, but not limited to: number of customers, payroll costs, the number of persons employed (including independent contractors), and sources of external funds (banks, investors) as **Exhibit G2**.
 - c) Narrative description of the applicant's plan(s) for achieving the projected cash flow amounts set forth in the statement of projected cash flows above as **Exhibit G3**.
 - d) Commitment letters, letters of intent, etc. from lenders and investors to provide funds through the first 12 months of operations as **Exhibit G4**.

EXPERIENCE AND MANAGERIAL CAPABILITY

9. a. Please list all states in which the Applicant or any of its affiliates have been authorized to operate and the name under which authority is held, and describe the services offered in those states.

- b. Please list all states in which the Applicant or any of its affiliates have been denied authority to operate, and the name under which authority was held or requested, and explain the reason for such denial.

- c. Please list all instances in which the Applicant has been penalized for slamming, cramming or providing inadequate service and explain each instance.

- d. If the Applicant is a newly created entity, list the experience of each principal officer, manager, or managing partner and provide other documentation in order to show that person's managerial and technical ability to provide services. Mark this documentation as **Exhibit H**.

PROPOSED SERVICE

10. Please described the proposed geographic area or areas to be served.

11. Please state the types of local exchange and exchange access services to be provided.

COMPLIANCE

12. Yes No In accordance with Commission Rule R17-2((b)(7), has the application been served on each of the LECs that provide local exchange service in North Carolina?
13. In accordance with Commission Rule R17-2(f), is the Applicant willing, either directly or through arrangements with other carriers, to provide as a condition to certification:
- a) Yes No Access to emergency service and access to services for the hearing and speech impaired?
 - b) Yes No Access to local and long distance directory assistance and provision of local telephone directories to end-users?
 - c) Yes No Access to operator services?
 - d) Yes No Access to all standard dialing patterns to all interLATA and intraLATA long distance carriers, including 1+ and 0+ access to the customer's carrier of choice for interLATA and intraLATA long distance calls, using a full 2-PIC methodology, as further described in 47 CFR 51.209 and Commission Rule R17-7?
 - e) Yes No Compliance with basic service standards as defined in any applicable rules and decisions of the Commission?
 - f) Yes No Free blocking of 900- and 976-type services and other pay-per-call services, including but not limited to calls to 700 and 800 numbers, for which charges are made by the service provider and billed by the Applicant?

- g) Yes No Free per-call and per-line blocking in accordance with the Orders of the Commission applicable to LECs, and to advise subscribers by insert or direct mailing of the availability of these free features at least once per year?
- h) Yes No Number portability where technically and economically feasible?
14. Yes No Does the Applicant intend to offer prepaid local exchange service as defined by the Commission in R17-1, either now or in the future? If yes, please answer questions 14(a) through 14(b).
- a) Yes No Does the Applicant understand and agree to the terms and conditions specified in Commission Rule R17-6 in the provision of prepaid local exchange service?
- b) Yes No Does the Applicant understand that the exemption from a portion of the requirements of Commission Rule R17-2(f) would apply only in the provision of prepaid local exchange service(s), and that the Applicant must abide by all parts of Commission Rule R17-2(f) in the provision of any other basic local exchange service(s)?
15. Yes No Does the Applicant agree to abide by all applicable statutes, and all applicable Orders, rules and regulations entered and adopted by the North Carolina Utilities Commission?
16. Yes No Does the Applicant plan to employ agents of any type, including independent sales agents, in offering its intrastate services? If yes, please answer questions 16(a) and 16(b).
- a) Yes No Does the Applicant understand that its agents must make it clear to prospective customers that they are only marketing the Applicant's services rather than offering service themselves?
- b) Yes No Does the Applicant understand it is responsible for ensuring that its agents comply with the Commission's rules and regulations?
17. Yes No Does the Applicant agree to provide support for universal service in a manner determined by the Commission?

18. Yes No Does the Applicant understand and agree to abide by Commission Rule R9-8 and Commission Rules R12-1 through R12-9?
19. Yes No Does the Applicant agree to maintain its books of account in accordance with Generally Accepted Accounting Principles (GAAP)?
20. Yes No Does the Applicant agree to file by the 15th day of each month a report with the Chief Clerk of the North Carolina Utilities Commission reflecting the total number of local access lines subscribed to at the end of the preceding month, listing separately for business and residential service, the number of local access lines that are providing prepaid local exchange service and the number of lines providing traditional local exchange telephone service in each respective geographic area that the Applicant serves?
21. Yes No Does the Applicant agree to participate in the telecommunications relay service in accordance with G.S. 62-157 and applicable orders, rules and regulations entered and adopted by the Commission?
22. Yes No Does the Applicant agree to be subject to the provisions of Chapter 62A of the General Statutes, the Public Safety Telephone Act, regarding emergency 911 service, applicable to service providers?
23. Yes No Does the Applicant understand and agree to abide by all applicable provisions adopted by the Commission for disconnection, partial payments, global toll denial, nonregulated charges, 900 and similar charges, treatment of stale debts, and disconnect notices and billing statements, as set forth in Commission Rule R12-17?
24. Yes No Does the Applicant agree to offer billing services for intrastate long distance calls only to long distance carriers certified by the Commission or to clearinghouses acting on behalf of certified long distance carriers? Please note that the name of the service provider shall be clearly stated on each page of the bill, and a contact telephone number for questions on the service shall appear on the bill. If billing is done through a clearinghouse, the name of the clearinghouse shall also appear on each page of the bill.

25. Yes No Will the Applicant give a notice by bill insert or direct mailing to all affected customers at least 14 days before any public utility rates are increased and before any public utility service offering is discontinued? Please note that notice of a rate increase shall include, at a minimum, the effective date of the rate change, the existing rates and the new rates.
26. Yes No Does the Applicant agree not to apply usage charges and per-call rates for switched local exchange services unless the call is answered? Please note that timing of a call shall not begin until the call is answered and shall end when either the calling party or the answering party disconnects.
27. Yes No Does the Applicant intend to offer pay telephone service? If so, please note that the provisions of Commission Rule R13, with the exception of Commission Rule R13-3(a), (b) and (c), shall apply to the offering of pay telephone service by a CLP. A CLP has the authority by virtue of its CLP certificate to offer both non-automated collect and automated collect service under the provisions of Commission Rule R13. When the term COCOT or PSP Certificate Number is referred to in Commission Rule R13, the docket number in which the CLP was certified shall be utilized, and when the term COCOT certificate, PSP certificate, or certificate, is referred to in Commission Rule R13, the CLP certificate shall be used.
28. Yes No Does the Applicant agree to be responsible for payment of the regulatory fee in accordance with G.S. 62-302 and Commission Rule R15?
29. Yes No Does the Applicant agree to notify the Commission, of any change in its (1) address, either physical or mailing, (2) Commission contacts, or (3) name under which the Applicant does business (d/b/a) within thirty (30) days of the effective date of any such change by mailing a notice of such change to the address shown on page 1 of this application?
30. Yes No Does the Applicant elect regulation under G.S. 62-133.5(h)? If so, the Applicant must comply with the "CERTAIN SUBSECTION (H) REQUIREMENTS AFTER SESSION LAW 2010-173" as set forth in Appendix B of the Commission's August 5, 2010 Order in Docket No. P-100, Sub 165.

(SIGNATURE)

(TITLE)

(NAME - PRINTED OR TYPED)

(DATE)

VERIFICATION

STATE OF _____ COUNTY OF _____

_____, personally appeared before me this day and, being first duly sworn, says that the facts stated in the foregoing application and any exhibits, documents, and statements thereto attached are true as he or she believes.

WITNESS my hand and notarial seal, this _____ day of _____, 20____.

My Commission Expires: _____

Signature of Notary Public

Name of Notary Public – Type or Printed

Note to Notary: See verification requirements under “Completing the CLP Application” on the next page.

COMPLETING THE CLP APPLICATION

1. This application is to be used to apply for a Certificate of Public Convenience and Necessity from the North Carolina Utilities Commission which, when granted, will authorize the holder to provide local exchange and local exchange access services as a **Competing Local Provider (CLP)** in the State of North Carolina. Applications for authority to provide other types of service must be filed in accordance with other Commission regulations.

2. The spaces in the shaded block on page 1 will be completed by the Chief Clerk when the application is received at the Commission's offices. The remainder of the application is to be completed by the Applicant and verified before a notary public.

3. Company Identity.

(a) The name of the Applicant must be the real name, as distinguished from a trade name or assumed name (d/b/a), of the individual, partnership, limited liability company or corporation applying for certification. If the Applicant is operating or intends to operate under a d/b/a in North Carolina, that name should also be provided in this application.

(b) If the Applicant intends to operate under a name other than the exact name that appears on the partnership agreement, articles of organization, articles of incorporation, or a name other than its real name, this must be a name that has been certified according to G.S. 66-68.

4. Signature.

This block in the verification is for the signature of the Applicant's responsible party: the individual or sole proprietor, one of the general partners, one of the members or managers of the limited liability company, or an officer of the corporation. The title of the responsible party must be specified, e.g., sole proprietor, general partner, member, president.

5. Verification.

A verification page is provided in the application. The name of the person who completes and signs the application must be typed or printed by the notary in the space provided in the verification. The notary's name must be typed or printed below the notary's seal. The verification must be affixed to the original and each of the 9 copies.

6. The following is a list of exhibits which may be required for a successful application. See the body of the form for further instruction on which exhibits are required for your particular case.

LIST OF EXHIBITS

- EXHIBIT A:** If a limited liability company, attach a copy of the articles of organization and the operating agreement; if a partnership or limited partnership, attach a copy of the partnership agreement; if a corporation, attach copy of the articles of incorporation and all amendments, if any.
- EXHIBIT B:** If a limited liability company, attach a list of members; if a partnership or limited partnership, attach a list of partners and officers and the percentage of equity interest of each; if a corporation, attach a list of all directors and principal stockholders with the number of shares held by each, and the names, titles, and addresses of the principal corporate officers.
- EXHIBIT C:** If a limited liability company or corporation and not organized in North Carolina, attach a copy of the **certificate of authority to do business** in North Carolina, issued by the Secretary of State.
- EXHIBIT D:** If Applicant has directors, partners, officers, or members affiliated with any other telecommunications company, attach a list of the companies and a description of the affiliation.
- EXHIBIT E:** If Applicant has a parent, affiliate(s) or subsidiary(ies), provide an **organizational chart** which identifies each entity and its relationship to the Applicant.
- EXHIBIT F:** Applicant's most recent **annual report to stockholders**, most recent **SEC 10k**, or **audited financial statements** for the most recent twelve months; or a current **Balance Sheet** and an **Income Statement** reflecting current and prior year balances for the twelve months ended as of the date of the Balance Sheet or, if more readily available, for the period since the close of the preceding calendar year;
- EXHIBIT F1:** The parent company's or equity partner's most recent **annual report to stockholders**, most recent **SEC 10k** or **audited financial statements** for the most recent twelve months;
- EXHIBIT F2:** A current **Balance Sheet** for a parent company or equity partner;
- EXHIBIT F3:** An **Income Statement** for a parent company or equity partner reflecting current and prior year balances for the twelve months ended as of the date of the **Balance Sheet** or, if more readily available, for the period since the close of the preceding calendar year;

- EXHIBIT F4:** A letter of commitment from a parent company or equity partner for financial resources if Applicant is relying on such a commitment.
- EXHIBIT G1:** Annual projected income statement and statement of projected cash flows for each year until net cash is provided by the operating activities of the applicant or three years, whichever period is longer.
- EXHIBIT G2:** Detailed description of the assumptions for each item reflected in the projected income statement and cash flow statement. The description should provide information on key assumptions, including, but not limited to: number of customers, payroll costs, the number of persons employed (including independent contractors), and sources of external funds (banks, investors).
- EXHIBIT G3:** Narrative description of the applicant's plan(s) for achieving the projected cash flow amounts set forth in the statement of projected cash flows (**EXHIBIT G1**).
- EXHIBIT G4:** Commitment letters, letters of intent, etc. from lenders and investors to provide funds through the first 12 months of operations.
- EXHIBIT H:** If the Applicant is a newly created entity, a description of the experience of each principal officer, manager, or managing partner and any other documentation which would demonstrate managerial and technical ability.
- EXHIBIT I:** If the Applicant is electing regulation under G.S. 62-133.5(h), an election filing in accordance with the "CERTAIN SUBSECTION (H) REQUIREMENTS AFTER SESSION LAW 2010-173" set forth in Appendix B of the Commission's August 5, 2010 Order in Docket No. P-100, Sub 165.

Chapter 17.
Provision of Local Exchange and Exchange
Access Competition

- Rule R17-1. Definitions.
- Rule R17-2. Requirements and limitations regarding certification of competing local providers.
- Rule R17-3. Universal service requirements.
- Rule R17-4. Interconnection.
- Rule R17-5. Number portability and number assignment.
- Rule R17-6. Prepaid Local Exchange Service.
- Rule R17-7. Dialing Parity.
- Rule R17-8. Procedures for Transfers of Control.

Rule R17-1. Definitions.

The following words and terms, when used in these rules, shall have the following meanings unless the context clearly indicates otherwise:

(a) **Basic Local Exchange Service.** -- The telephone service comprised of an access line, dialtone, the availability of touchtone, and usage provided to the premises of residential customers or business customers within a local exchange area.

(b) **Certificate.** -- A certificate of public convenience and necessity to provide local exchange and/or exchange access service as a public utility as defined in G.S. 62-3(23)a.6.

(c) **Commission.** -- The North Carolina Utilities Commission.

(d) **Competing Local Provider or CLP.** -- Any person applying for or granted a certificate to provide local exchange or exchange access services in competition with a local exchange company.

(e) **Exchange Access Service.** -- Switched or special access service provided by a LEC or CLP to a customer which facilitates a connection between an end-user and an interexchange carrier.

(f) **FCC** – The Federal Communications Commission.

(g) **Local Exchange Service Area.** -- The geographic area within which a CLP or LEC is authorized to provide local exchange or exchange access service.

(h) **Local Exchange Company or LEC.** -- Any person, holding on January 1, 1995, a certificate to provide local exchange services or exchange access services, excluding telephone membership corporations.

(i) **Local Exchange Service.** -- Switched service offered by a CLP or LEC, without the payment of long distance charges; or dedicated service connecting two or more points within an exchange as defined on an exchange service area map of a LEC or CLP.

(j) **Notice** -- A document filed with the Commission pursuant to Rule R17-8 which includes the following: (1) The name, address of the principal headquarters, and telephone and facsimile numbers for each of the parties to the Section 214 License Transfer or Pro forma Transaction and any changes in the Name and Contacts information provided in the non-dominant CLP's original Competing Local Provider Application; (2) A statement setting forth a description of the Section 214 License Transfer or Pro forma Transaction; (3) A copy of the application for a domestic Section 214 License Transfer, or in the case of a Pro *forma* Transaction the notification letter, filed with the FCC; and (4) A copy of the FCC's Public Notice of the Section 214 License Transfer or *Pro forma* Transaction.

(k) Number Portability. -- The technical capability to allow customers to retain their telephone numbers when they change providers of local exchange service but do not change locations.

(l) Prepaid local exchange service. -- Local exchange service for which payment is typically required in advance. Prepaid service usually does not allow the customer to dial or use local or long distance directory assistance or operator services, to place long distance calls through standard dialing patterns (including 1+ and 0+ calls), or to place calls to the expanded local calling areas using standard dialing patterns.

(m) *Pro forma* Transaction – Any corporate restructuring, reorganization or liquidation of internal business operations that does not result in a change in ultimate ownership or control of the carrier's lines or authorization to operate.

(n) Section 214 License Transfer – A transfer of control of lines or authorization to operate pursuant to section 214 of the Communications Act of 1934 subject to the streamlining procedures for domestic transfer of control applications in 47 C.F.R. § 63.03.

(o) Universal Service. -- The provision of affordable basic local exchange service, part of which may be subsidized through a universal service fund.

(p) USDOJ – The United States Department of Justice.

(NCUC Docket No. P-100, Sub 133, 7/19/95; 2/23/96; 3/5/96; 9/21/00; NCUC Docket No. P-100, Sub 163, 8/24/06; 8/28/06.)

Rule R17-2. Requirements and limitations regarding certification of competing local providers.

(a) Any entity other than an existing CLP certificate holder applying for a certificate or for authority to acquire an existing certificate shall complete a CLP application form and make a satisfactory showing to the Commission:

- (1) That it is fit, capable and financially able to render such service;
- (2) That the service to be provided will reasonably meet the service standards set out in Rule R9-8;
- (3) That the provision of the service will not adversely impact the availability of reasonably affordable local exchange service;
- (4) That it will participate to the extent it may be required to do so by the Commission in the support of universally available telephone services at affordable rates; and
- (5) That the provision of the services will not otherwise adversely impact the public interest.

(b) Any CLP applying for a certificate to provide competing local exchange or exchange access services shall include in its application the following:

- (1) The name of the CLP, the address of the principal headquarters, the telephone and facsimile numbers, and the names and addresses of the CLP's principal officers;
- (2) Names, addresses, and telephone and facsimile numbers of the CLP's employees for the Commission to contact regarding various regulatory matters and for customers to contact regarding service;
- (3) If pay telephone service will be provided, the address to be used by the serving LEC in billing for payphone service provider (PSP) lines or trunks and by the CLP in meeting PSP notice requirements;
- (4) Information about the structure of the business organization and, where applicable, a copy of any articles of incorporation, partnership agreement, articles of organization, or by-laws of the CLP, and a copy of a certificate of authority to do business in North Carolina; if an office is not maintained in North Carolina, the name and address of agent for service of process in North Carolina;
- (5) A list of other states where the CLP or any of its affiliates is authorized to operate and a list of those states which have denied any requested authority and an indication of the nature of such denial;
- (6) A showing as to the CLP's financial, managerial and technical ability to render local exchange or local exchange access services:

- (a) As a minimum requirement, a showing of financial ability shall be made by attaching the CLP's most recent stockholders' annual report, its most recent SEC 10K or audited financial statements for the most recent twelve months or, if the company is not publicly traded, its most recent balance sheet and income statement. If a balance sheet and income statement are not available, then the CLP shall provide a current 5-year business plan and all supporting workpapers and schedules as provided on the CLP application

form. Additional support for the Applicant's financial ability may also be included as provided on the CLP application form. The Applicant must also provide an explanation for any conditions which may affect its ability to continue as a going concern as set forth in the CLP application form;

(b) To demonstrate managerial and technical fitness and ability, the CLP shall attach a brief description of its history of providing local exchange or exchange access or other telecommunications services and shall list the geographic areas in which it has been and is currently providing such services. A newly created company shall list the experience of each principal officer and may also provide other documentation in order to show its managerial and technical ability to provide services.

(c) Rescinded.

- (7) Confirmation that the application has been served on each of the LECs in North Carolina;
- (8) A statement setting forth with particularity the proposed geographic areas to be served;
- (9) The types of local exchange and exchange access services to be provided; and
- (10) A statement that the CLP agrees to abide by all applicable statutes and all applicable Orders, rules, and regulations entered and adopted by the Commission.

(c) The application shall be verified. The CLP shall file the original and 11 copies of its application with the Chief Clerk of the Commission and shall submit a statutory filing fee of \$250 with the application. Applications are exempt from Commission Rule R1-5(d) which requires that pleadings filed on behalf of a corporation be filed by a member of the Bar of the State of North Carolina. Should a public hearing be required, the requirements of G.S. 84-4 and G.S. 84-4.1 are still applicable.

(d) Falsification or failure to disclose any required information in the petition for certification may be grounds for denial or revocation of any certificate.

(e) All CLPs shall be willing as a condition to certification to provide support for universal service in a manner determined by the Commission. This requirement shall not be construed as prohibiting the granting of a certificate before the universal service issues are finally determined by the Commission.

(f) Except as provided in Commission Rule R17-6, a CLP shall, either directly or through arrangements with other carriers, provide as a part of its basic local exchange service(s) the following:

- (1) Access to emergency service and services for the hearing and speech impaired;

- (2) Access to local and long distance directory assistance and provision of local telephone directories to end-users;
 - (3) Access to operator services;
 - (4) Access to all standard dialing patterns to all interLATA and intraLATA long distance carriers, including 1+ and 0+ access to the customer's carrier of choice for interLATA and intraLATA long distance calls;
 - (5) Compliance with Commission basic services standards as defined in any applicable rules and decisions of the Commission;
 - (6) Free blocking of 900 and 976-type services and other pay-per-call services, including but not limited to calls to 700 and 800 numbers, for which charges are made by the service provider and billed by the CLP;
 - (7) Free per-call and per-line blocking in accordance with Orders of the Commission applicable to LECs; subscribers must be advised by bill insert or direct mailing of the availability of these free features at least once per year; and
 - (8) Number portability where technically and economically reasonable.
- (g) The provisions of Commission Rule R9-8 and R12-1 through R12-9 shall apply to CLPs.
- (h) Rescinded.
- (i) CLPs shall maintain their books of account in accordance with Generally Accepted Accounting Principles (GAAP).
- (j) Financial reports are not required to be routinely filed by CLPs. However, the CLP shall submit specific financial information upon request of the Commission or the Public Staff.
- (k) By the 15th day of each month, each CLP shall file a report with the Chief Clerk reflecting the number of local access lines subscribed to at the end of the preceding month in each respective geographic area served by the CLP, listing separately for business and residential service, the number of local access lines that are providing prepaid local exchange service and the number of local access lines providing traditional local exchange telephone service. Other operating statistics are not required to be filed except upon specific request of the Commission or the Public Staff.
- (l) CLPs shall be required to participate in the telecommunications relay service in accordance with G.S. 62-157 and applicable orders, rules and regulations entered and adopted by the Commission.
- (m) CLPs shall be subject to the provisions of Chapter 62A of the General Statutes, the Public Safety Telephone Act, applicable to service providers.
- (n) A CLP must abide by all applicable provisions adopted by the Commission for disconnection, partial payments, global toll denial, nonregulated charges, 900 and similar charges, treatment of stale debts, disconnect notices, periodic notification of disconnect policy and billing statements as set forth in Commission Rule R12-17.
- (o) Rescinded.
- (p) Billing services for intrastate long distance calls may be offered by a CLP only to long distance carriers certified by the Commission or to clearinghouses acting on behalf of certified long distance carriers. The name of the service provider shall be clearly stated on each page of the bill, and a contact telephone number for questions on the

service shall appear on the bill. If billing is done through a clearinghouse, the name of the clearinghouse shall also appear on each page of the bill.

(q) A notice by bill insert or direct mailing shall be given by a CLP to all affected customers at least 14 days before any public utility rates are increased and before any public utility service offering is discontinued. Notice of a rate increase shall include at a minimum the effective date of the rate change, the existing rates and the new rates.

(r) A CLP must abide by the provisions adopted by the Commission for the handling of problems arising from billing of 900 calls; other pay-per-call services, including but not limited to calls to 976, 700 and 800 numbers, for which charges are made by the service provider and billed to the caller by the CLP, shall be subject to the same provisions as are applicable to 900 calls.

(s) Usage charges and per-call rates for switched local exchange services provided by a CLP shall not apply unless the call is answered. Timing of a call shall not begin until the call is answered and shall end when either the calling party or the answering party disconnects.

(t) The provisions of Commission Rule R13, with the exception of R13-3(a), (b) and (c) shall apply to the offering of pay telephone service by a CLP. A CLP has the authority by virtue of its CLP certificate to offer both non-automated collect and automated collect service under the provisions of R13. When the term PSP Certificate Number is referred to in Rule R13, the docket number in which the CLP was certified shall be utilized, and when the term PSP certificate or certificate is referred to in Rule R13, the CLP certificate shall be used.

(u) CLPs are responsible for payment of the regulatory fee in accordance with G.S. 62-302 and Commission Rule R15.

(v) A CLP shall not knowingly offer or provide service for use in an unlawful manner.

(w) A CLP shall not assess a charge or penalty for disconnection of any regulated service unless the charge or penalty is specifically provided for in a contract signed by the subscriber.

(NCUC Docket No. P-100, Sub 133, 7/19/95; 2/23/96; P-100, Sub 140, 4/3/00; NCUC Docket No. M-100, Sub 128, 04/10/00; NCUC Docket No. P-100, Sub 133; 9/21/00.)

Rule R17-3. Universal service requirements.

(a) Each LEC shall be the universal services provider in the area in which it is certificated to operate on July 1, 1995, unless otherwise determined by the Commission in further interim or permanent rules.

(b) The Commission will establish a Universal Service Fund, designate a permanent universal service provider for each service area, and determine applicable payment mechanisms in compliance with G.S. 62-110(f1). Any CLP offering telecommunications services in North Carolina will be required to participate in such fund.

(c) To the extent required, the establishment of the Universal Service Fund shall first require the evaluation of the definition of basic local exchange telephone services and the calculation of the subsidy required to support those basic local exchange telephone services which the Commission may decide are appropriate.

(NCUC Docket No. P-100, SUB 133, 7/19/95; 2/23/96; 9/21/00.)

Rule R17-4. Interconnection.

(a) Interconnection arrangements should make available the features, functions, interface points and other service elements on an unbundled basis required by a requesting CLP to provide quality services. The Commission may, on petition by any interconnecting party, determine the reasonableness of any interconnection request.

(b) Interconnection arrangements should apply equally and on a nondiscriminatory basis to all CLPs.

(c) Interconnection arrangements must be made available pursuant to a *bona fide* written request. No refusal or unreasonable delay by any LEC to another carrier will be allowed.

(d) Interconnection agreements are to be negotiated in good faith. Such agreements shall be filed for approval as soon as practicable but in no event later than 30 days from the date of conclusion of negotiations. Parties may operate on an interim basis under a negotiated interconnection agreement which has been filed with the Commission and which is publicly available as a public record pending Commission action on the filing. Interim operations under a negotiated interconnection agreement shall begin no earlier than the date upon which the agreement is filed with the Commission and shall be undertaken, at the risk of the parties, subject to the right of the Commission to approve or disapprove the agreement.

(e) In the event the parties are unable to agree within 90 days of a *bona fide* request, either party may petition the Commission for a determination of the appropriate rates and terms for interconnection.

(f) Unbundled functional elements of a LEC's network that are made available throughout interconnection agreements should also be made available on an individual tariffed basis.

(NCUC Docket No. P-100, Sub 133, 7/19/95; 2/23/96; 6/18/96; 9/21/00.)

Rule R17-5. Number portability and number assignment.

(a) End-users shall have number portability regardless of their chosen LEC or CLP.

(b) True number portability shall be made available when technically and economically reasonable.

(c) Interim number portability arrangements shall be utilized until true number portability is available. The LEC and CLP shall include interim number portability issues in interconnection negotiations.

(d) To the extent feasible, the LEC shall provide the CLP with reservations for a reasonably sufficient block of numbers for their use.

(NCUC Docket No. P-100, Sub 133, 7/19/95; 2/23/96; 9/21/00.)

Rule R17-6. Prepaid Local Exchange Service.

(a) Prepaid local exchange service(s) are exempt from portions of Commission Rule R17-2(f). No other basic local exchange service(s) offered by such CLP shall be exempt from any portion of Commission Rule R17-2(f). Those portions of Commission Rule R17-2(f) from which prepaid local exchange service may be exempt are:

- (1) That part of Commission Rule R17-2(f2) requiring access to local and long distance directory assistance;
- (2) Commission Rule R17-2(f3) requiring access to operator services; and
- (3) Commission Rule R17-2(f4) requiring access to all standard dialing patterns to all interLATA and intraLATA long distance carriers, including 1+ and 0+ access to the customer's carrier of choice for interLATA and intraLATA long distance calls.

(b) Prepaid local exchange service offered by a CLP is subject to the following terms and conditions:

- (1) The CLP shall provide the subscriber with a Customer Service Agreement which constitutes the contract between the subscriber and CLP. The Customer Service Agreement shall:
 - (i) describe with particularity the local exchange services offered, contain a concise list of the rates for all services offered, and fully disclose all terms and conditions with which the subscriber must comply;
 - (ii) fully disclose any limitations of the provided services as a result of the exemptions permitted in Commission Rule R17-6(a);
 - (iii) include a full description of the billing process and payment arrangements, which shall include, at a minimum, the billing date, the past due date and the date on which service may be discontinued for non-payment of regulated charges;
 - (iv) state that Lifeline and Link-Up Carolina programs are available for qualifying subscribers who contact their local social services agency; and
 - (v) contain a statement which establishes that the subscriber has read the Customer Service Agreement in its entirety, or has had the Customer Service Agreement read to him or her, and has fully understood the terms and conditions of service before signing the Customer Service Agreement.
- (2) The CLP shall make appropriate changes to the Customer Service Agreement pursuant to all statutes and Commission orders, rules and regulations;
- (3) If any portion of the Customer Service Agreement is in a language other than English, all portions of the Customer Service Agreement must be in that language. Every Customer Service Agreement must be in the same language as any promotional materials, oral descriptions, or instructions provided with the Customer Service Agreement;

- (4) A copy of the Customer Service Agreement signed by the subscriber shall be received by the CLP or its independent agent before the CLP may provide local exchange services to the subscriber;
 - (5) The CLP may not offer a service in such a way that purchasing a period of service obligates the subscriber to purchase additional periods of the same service;
 - (6) The CLP may not impose any charge for the termination of basic local exchange service; and
 - (7) The CLP may not impose any punitive charges on its subscribers for the accumulation of intraLATA toll or interLATA long distance charges.
- (c) The Customer Service Agreement shall be subject to periodic review by the Commission and the Public Staff.
(NCUC Docket No. P-100, Sub 133, 9/21/00.)

Rule R17-7. Dialing Parity.

(a) Any CLP offering basic local exchange service, other than prepaid local exchange service for which exemptions of Commission Rule R17-2(f) are allowed, shall offer interLATA and intraLATA toll dialing parity for such basic local exchange service as prescribed in 47 CFR 51.209.

(b) Dialing parity means the implementation of the full 2-PIC (Primary Interexchange Carrier) selection methodology. The full 2-PIC method generally allows customers to presubscribe to a telecommunications carrier for all 0+ and 1+ interLATA toll calls and presubscribe to the same or another telecommunications carrier (including, but not limited to, the customer's local exchange carrier) for all 0+ and 1+ intraLATA toll calls.

(c) Customers who do not select a carrier for one or both types of long distance calls (intraLATA and/or interLATA toll calls) will be designated as "no-PIC" by the CLP for the handling of those types of long distance calls for which no telecommunications carrier was selected. Customers with the "no-PIC" designation for either type of long distance call will be required to place those calls by accessing their choice of carrier through 101XXXX (dial-around) access codes.

(d) If long distance carriers must arrange for connection to CLP's facilities in order to participate in the presubscription process, the carriers must be advised of that opportunity before orders for exchange service are taken.

(e) Each new customer must be given the choice of carriers by the service representative in a competitively neutral manner when the order for the exchange service is placed.

(NCUC Docket No. P-100, Sub 133, 9/21/00.)

Rule R17-8. Procedures for Transfers of Control.

- (a) A CLP holding a Certificate is exempt from the provisions of G.S. § 62-111(a) requiring approval of transfers of control transactions, except as set forth in this rule.
- (b) A CLP holding a Certificate shall file a Notice with the Commission immediately upon filing an application for a domestic Section 214 License Transfer with the FCC pursuant to 47 C.F.R. § 63.03. Coincident with the filing with the NCUC, the CLP shall serve a copy of such Notice on any ILEC in North Carolina with which the CLP has entered into an interconnection agreement approved by this Commission.
- (c) Notwithstanding the provision of subsection (b), the Commission retains authority to make inquiries, initiate proceedings and impose conditions on a CLP's Certificate(s) including reporting requirements, to protect consumer interests.
- (d) Notwithstanding the close of a Section 214 License Transfer, any proceeding or investigation initiated by the Commission pursuant to subsection (c) shall continue in the Commission's discretion, and the Commission shall retain the authority to impose conditions on a CLP's Certificate(s) if necessary to protect consumer interests.
- (e) A CLP holding a Certificate shall file a Notice with the Commission no later than 30 days after control of the carrier is transferred pursuant to a *Pro forma* Transaction.
- (f) Nothing in this rule shall be deemed to exempt an entity from the requirements of Rule R17-2.

(NCUC Docket No. P-100, Sub 163; 8/24/06.)

The Public Utilities Commission of Ohio
TELECOMMUNICATIONS APPLICATION FORM for ROUTINE PROCEEDINGS
(Effective: 01/18/2008)

In the Matter of the Application of _____)
to _____)
_____)
_____)

TRF Docket No. 90-_____
Case No. ____ - ____ - **TP** - ____

NOTE: Unless you have reserved a Case # or are filing a Contract, leave the "Case No" fields BLANK.

Name of Registrant(s) _____
DBA(s) of Registrant(s) _____
Address of Registrant(s) _____
Company Web Address _____
Regulatory Contact Person(s) _____ Phone _____ Fax _____
Regulatory Contact Person's Email Address _____
Contact Person for Annual Report _____ Phone _____
Address (if different from above) _____
Consumer Contact Information _____ Phone _____
Address (if different from above) _____

Motion for protective order included with filing? Yes No
Motion for waiver(s) filed affecting this case? Yes No [Note: Waivers may toll any automatic timeframe.]

Section I – Pursuant to Chapter 4901:11-6 OAC – Part I – Please indicate the Carrier Type and the reason for submitting this form by checking the boxes below. CMRS providers: Please see the bottom of Section II.

NOTES: (1) For requirements for various applications, see the identified section of Ohio Administrative Code Section 4901 and/or the supplemental application form noted.

(2) Information regarding the number of copies required by the Commission may be obtained from the Commission's web site at www.puco.ohio.gov under the docketing information system section, by calling the docketing division at 614-466-4095, or by visiting the docketing division at the offices of the Commission.

Carrier Type <input type="checkbox"/> Other (explain below)	<input type="checkbox"/> ILEC	<input type="checkbox"/> CLEC	<input type="checkbox"/> CTS	<input type="checkbox"/> AOS/IOS
Tier 1 Regulatory Treatment				
Change Rates within approved Range	<input type="checkbox"/> TRF 1-6-04(B) (0 day Notice)	<input type="checkbox"/> TRF 1-6-04(B) (0 day Notice)		
New Service, expanded local calling area, correction of textual error	<input type="checkbox"/> ZTA 1-6-04(B) (0 day Notice)	<input type="checkbox"/> ZTA 1-6-04(B) (0 day Notice)		
Change Terms and Conditions, Introduce non-recurring service charges	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)		
Introduce or Increase Late Payment or Returned Check Charge	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)	<input type="checkbox"/> ATA 1-6-04(B) (Auto 30 days)		
Business Contract	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)		
Withdrawal	<input type="checkbox"/> ATW 1-6-12(A) (Non-Auto)	<input type="checkbox"/> ATW 1-6-12(A) (Auto 30 days)		
Raise the Ceiling of a Rate	Not Applicable	<input type="checkbox"/> SLF 1-6-04(B) (Auto 30 days)		
Tier 2 Regulatory Treatment				
Residential - Introduce non-recurring service charges	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)		
Residential - Introduce New Tariffed Tier 2 Service(s)	<input type="checkbox"/> TRF 1-6-05(C) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(C) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(C) (0 day Notice)	
Residential - Change Rates, Terms and Conditions, Promotions, or Withdrawal	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	<input type="checkbox"/> TRF 1-6-05(E) (0 day Notice)	
Residential - Tier 2 Service Contracts	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	<input type="checkbox"/> CTR 1-6-17 (0 day Notice)	
Commercial (Business) Contracts	Not Filed	Not Filed	Not Filed	
Business Services (see "Other" below)	Detariffed	Detariffed	Detariffed	
Residential & Business Toll Services (see "Other" below)	Detariffed	Detariffed	Detariffed	

Section I – Part II – Certificate Status and Procedural

Certificate Status	ILEC	CLEC	CTS	AOS/IOS
Certification (See Supplemental ACE form)		<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)	<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)	<input type="checkbox"/> ACE 1-6-10 (Auto 30 days)
Add Exchanges to Certificate	<input type="checkbox"/> ATA 1-6-09(C) (Auto 30 days)	<input type="checkbox"/> AAC 1-6-10(F) (0 day Notice)	CLECs must attach a current CLEC Exchange Listing Form	
Abandon all Services - With Customers	<input type="checkbox"/> ABN 1-6-11(A) (Non-Auto)	<input type="checkbox"/> ABN 1-6-11(A) (Auto 90 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)
Abandon all Services - Without Customers		<input type="checkbox"/> ABN 1-6-11(A) (Auto 30 days)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)	<input type="checkbox"/> ABN 1-6-11(B) (Auto 14 day)
Change of Official Name (See below)	<input type="checkbox"/> ACN 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ACN 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Change in Ownership (See below)	<input type="checkbox"/> ACO 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ACO 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Merger (See below)	<input type="checkbox"/> AMT 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> AMT 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Transfer a Certificate (See below)	<input type="checkbox"/> ATC 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ATC 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Transaction for transfer or lease of property, plant or business (See below)	<input type="checkbox"/> ATR 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> ATR 1-6-14(B) (Auto 30 days)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)	<input type="checkbox"/> CIO 1-6-14(A) (0 day Notice)
Procedural				
Designation of Process Agent(s)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)	<input type="checkbox"/> TRF (0 day Notice)

Section II – Carrier to Carrier (Pursuant to [4901:1-7](#)), CMRS and Other

Carrier to Carrier	ILEC	CLEC		
Interconnection agreement, or amendment to an approved agreement	<input type="checkbox"/> NAG 1-7-07 (Auto 90 day)	<input type="checkbox"/> NAG 1-7-07 (Auto 90 day)		
Request for Arbitration	<input type="checkbox"/> ARB 1-7-09 (Non-Auto)	<input type="checkbox"/> ARB 1-7-09 (Non-Auto)		
Introduce or change c-t-c service tariffs,	<input type="checkbox"/> ATA 1-7-14 (Auto 30 day)	<input type="checkbox"/> ATA 1-7-14 (Auto 30 day)		
Introduce or change access service pursuant to 07-464-TP-COI	<input type="checkbox"/> ATA (Auto 30 day)			
Request rural carrier exemption, rural carrier suspension or modification	<input type="checkbox"/> UNC 1-7-04 or 1-7-05 (Non-Auto)	<input type="checkbox"/> UNC 1-7-04 or 1-7-05 (Non-Auto)		
Pole attachment changes in terms and conditions and price changes.	<input type="checkbox"/> UNC 1-7-23(B) (Non-Auto)	<input type="checkbox"/> UNC 1-7-05 (Non-Auto)		
CMRS Providers See 4901:1-6-15	<input type="checkbox"/> RCC [Registration & Change in Operations] (0 day)		<input type="checkbox"/> NAG [Interconnection Agreement or Amendment] (Auto 90 days)	
Other* (explain) _____				

*NOTE: During the interim period between the effective date of the rules and an Applicant's Detariffing Filing, changes to existing business Tier 2 and all toll services, including the addition of new business Tier 2 and all new toll services, will be processed as 0-day TRF filings, and briefly described in the "Other" section above.

All Section I and II applications that result in a change to one or more tariff pages require, at a minimum, the following exhibits. Other exhibits may be required under the applicable rule(s). ACN, ACO, AMT, ATC, ATR and CIO applications see [the 4901:1-6-14 Filing Requirements on the Commission's Web Page](#) for a complete list of exhibits.

Exhibit	Description:
A	The tariff pages subject to the proposed change(s) as they exist before the change(s)
B	The Tariff pages subject to the proposed change(s), reflecting the change, with the change(s) marked in the right margin.
C	A short description of the nature of the change(s), the intent of the change(s), and the customers affected.
D	A copy of the notice provided to customers, along with an affidavit that the notice was provided according to the applicable rule(s).

Section III. – Attestation

Registrant hereby attests to its compliance with pertinent entries and orders issued by the Commission.

AFFIDAVIT

Compliance with Commission Rules and Service Standards

I am an officer/agent of the applicant corporation, _____, and am authorized to make this statement on its behalf.
(Name)

I attest that these tariffs comply with all applicable rules, including the Minimum Telephone Service Standards (MTSS) Pursuant to Chapter 4901:1-5 OAC for the state of Ohio. I understand that tariff notification filings do not imply Commission approval and that the Commission's rules, including the Minimum Telephone Service Standards, as modified and clarified from time to time, supersede any contradictory provisions in our tariff. We will fully comply with the rules of the state of Ohio and understand that noncompliance can result in various penalties, including the suspension of our certificate to operate within the state of Ohio.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on (Date) _____ at (Location) _____

*(Signature and Title) _____ (Date) _____

- *This affidavit is required for every tariff-affecting filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.*

VERIFICATION

I, _____
verify that I have utilized the Telecommunications Application Form for Routine Proceedings provided by the Commission and that all of the information submitted here, and all additional information submitted in connection with this case, is true and correct to the best of my knowledge.

*(Signature and Title) _____ (Date) _____

**Verification is required for every filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.*

Send your completed Application Form, including all required attachments as well as the required number of copies, to:

**Public Utilities Commission of Ohio
Attention: Docketing Division
180 East Broad Street, Columbus, OH 43215-3793**

Or

Make such filing electronically as directed in Case No 06-900-AU-WVR

The Public Utilities Commission of Ohio
TELECOMMUNICATIONS SUPPLEMENTAL APPLICATION FORM
for CARRIER CERTIFICATION
(Effective: 09/19/2007)

(Pursuant to Case Nos. 06-1344-TP-ORD and 06-1345-TP-ORD)

NOTE: This SUPPLEMENTAL form must be used WITH the
TELECOMMUNICATIONS APPLICATION FORM for ROUTINE PROCEEDINGS.

In the Matter of the Application of _____)
to _____)
))
))
))

Case No. _____ - _____ **-TP-** _____

Name of Registrant(s) _____
DBA(s) of Registrant(s) _____
Address of Registrant(s) _____

Motion for protective order included with filing? Yes No
Motion for waiver(s) filed affecting this case? Yes No [Note: waiver(s) tolls any automatic timeframe]

List of Required Exhibits

Tariffs: (Include all that apply)

- Interexchange Tariff¹ Local Tariff¹ Carrier-to-Carrier (Access) Tariff

Description of Services

NOTE: All Facilities-Based carriers must file an Access Tariff

- | | | |
|---|--|--|
| <input type="checkbox"/> Service provisioned via Resale | <input type="checkbox"/> Service provisioned via Facilities | <input type="checkbox"/> Both Resold and Facilities-based |
| <input type="checkbox"/> Description of Proposed Services | <input type="checkbox"/> Statement about the provision of CTS services | <input type="checkbox"/> Description of the proposed market area |
| <input type="checkbox"/> Explanation of how the proposed services in the proposed market area are in the public interest. | <input type="checkbox"/> Description of the class of customers (e.g., residence, business) that the applicant intends to serve | |

Business Requirements

- Evidence of Registration with:** Ohio Department of Taxation Ohio Secretary of State² & Certificate of Good Standing

Documentation attesting to the applicant's financial viability, including the following:

- An executive Summary describing the applicant's current financial condition, liquidity, and capital resources. Describe internally generated sources of cash and external funds available to support the applicant's operations that are the subject of this certification application.
- Copy of financial statements (actual and pro forma income statement and a balance sheet). Indicate if financial statements are based on a certain geographical area(s) or information in other jurisdictions
- Documentation to support the applicant's cash and funding sources.

Documentation attesting to the applicant's managerial ability and corporate structure, including the following:

- Documentation attesting to the applicant's technical and managerial expertise relative to the proposed service offering(s) and proposed service area
- List of names, addresses, and phone numbers of officers and directors, or partners.
- Documentation indicating the applicant's corporate structure and ownership
- Information regarding any similar operations in other states.

If this company has been previously certified in the State of Ohio, include that certification number _____

¹ Detariffed services are regulated but not required to be filed in a tariff. For purposes of Certification, all detariffed services offered must be provided as an exhibit.

² Certification from Ohio Secretary of State (domestic or foreign corporation, authorized use of fictitious name, etc.), and Certificate of Good Standing is required.

- Verification that the applicant will maintain local telephony records separate and apart from any other accounting records in accordance with the GAAP.

Documentation attesting to the applicant's managerial ability and corporate structure (cont'd):

- Verification of compliance with any affiliate transaction requirements

Documentation attesting to the applicant's proposed interactions with other Carriers

- Explanation as to whether rates are derived through (check all applicable):
 - interconnection agreement
 - retail tariffs
 - resale tariffs
- Explanation as to which service areas company currently has an approved interconnection or resale agreement.
- A notarized affidavit accompanied by bona fide letters requesting negotiation pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 and a proposed timeline for construction, interconnection, and offering of services to end users.

Documentation attesting to the applicant's proposed interactions with Customers

- Explanation of whether applicant intends to provide Local Services which require payment in advance of Customer receiving dial tone.
- Tariff sheet(s) listing the services and associated charges that must be paid prior to customer receiving dial tone (if applicable)
- A sample copy of the customer bill and disconnection notice the applicant plans to utilize.
- Provide a copy of any customer application form required in order to establish residential service, if applicable.
- For CLECs, List of Ohio ILEC Exchanges the applicant intends to serve
(Use spreadsheet from: http://www.puc.state.oh.us/puco/forms/form.cfm?doc_id=357)
- If Mirroring the entire ILEC exchanges for both serving area and local calling areas, tariffs may incorporate by reference. If not mirroring the entire ILEC serving and/or local calling areas, the CLEC shall specifically define their service and local calling areas in the tariff.

Affidavit

I am an authorized representative of the applicant corporation _____
(Name)
and I am authorized to make this statement on its behalf. I attest that I have utilized the Telecommunications Supplemental Application Form for Carrier Certification provided by the Commission, and that all of the information submitted here, and all additional information submitted in connection with this case, is true and correct.

Executed on _____ at _____

(Signature and Title)

(Date)

4901:1-6-10 Telephone company certification.

(A) Any telephone company desiring to offer telecommunication services, other than commercial mobile radio service, in the state of Ohio shall file an application for certification (ACE) with the commission using the telecommunications application form. The form which is available from the commission's web site, serves to identify the specific types of telecommunication services the applicant wishes to offer, and to verify the applicant's commitment to comply with all applicable commission rules and regulations. The telecommunications application form must be signed by an officer of the applicant, must be notarized, and must identify any agents or employees authorized to make filings on behalf of the applicant before the commission.

(B) An applicant's ACE application must include a complete tariff in conformance with paragraph (B)(1) of rule 4901:1-6-06 of the Administrative Code. An ACE application filed without a completed telecommunications application form, as well as a completed tariff, and all exhibits in paragraphs (D) and (E) of this rule, as applicable, may be subject to immediate dismissal pursuant to paragraph (A)(3) of rule 4901:1-6-06 of the Administrative Code.

(C) The commission's docketing division will assign a tariff filing (TRF) docket number, and the applicant will be informed of that number within fourteen days of filing so that the applicant may finalize its tariff and price lists prior to the automatic approval date of the ACE. Failure to file all necessary tariff revisions requested by staff prior to the thirtieth day from initial filing of the ACE application will result in suspension or dismissal of the application. Final tariffs must be filed in the ACE case as well as in the applicant's TRF docket no later than ten days after the automatic approval date, and posted on its website, if applicable.

(D) Minimum requirements to be filed by all applicants seeking certification as a telephone company include:

(1) Certificate of good standing and certificate to operate as an out-of-state entity issued by the Ohio secretary of state and, if applicable, fictitious name authorization.

(2) Full address and telephone number, and if available, e-mail address and web site.

(3) Verification of compliance with any applicable affiliate transaction requirements.

(4) Verification that the applicant will maintain accounting records pursuant to generally accepted accounting principles.

(5) Documentation attesting to the applicant's satisfactory technical expertise relative to the proposed service offering(s).

(6) Documentation indicating the applicant's satisfactory corporate structure, managerial expertise, and ownership.

(7) Information pertaining to any similar operations provided by the applicant in other states.

(8) Evidence of notice to the Ohio department of taxation, public utilities tax division, of its intent to

provide service.

(9) Any waivers sought by the applicant, submitted pursuant to rule 4901:1-6-02 of the Administrative Code.

(10) Documentation attesting to the applicant's financial viability including, at a minimum, an actual and pro forma income statement and balance sheet.

(E) Additional requirements to be submitted by a competitive local exchange carrier (CLEC) seeking certification:

(1) Proposed end user tariffs, including a full description of proposed services and operations as well as all relevant terms and conditions for all tier 1 and tier 2 services except detariffed tier 2 services. If tariffs are not required, a list of the types of services the company plans to offer should be provided. Tariffs may incorporate by reference the exchanges of an incumbent local exchange carrier (ILEC) if the applicant is proposing to mirror the ILEC's serving and/or local calling areas in its entirety. If an applicant is a facilities-based CLEC it must provide a carrier-to-carrier tariff, which at a minimum includes an access tariff.

(2) A list of the ILEC exchanges which the applicant intends to serve. If the applicant is not mirroring the entire ILEC serving and/or local calling areas, the CLEC shall specifically define their service and local calling areas in commission-approved tariffs.

(3) A notarized affidavit signed by an authorized employee and accompanied by the bona fide request for interconnection letter sent to the ILEC which verifies that the applicant has entered into negotiations to establish an interconnection and/or transport and termination agreements with, at a minimum, the ILEC serving the geographic area(s) where the applicant will be providing its services. If the agreements(s) have already been filed with the commission for approval, the specific case numbers should be stated. To the extent the agreements have not been filed, the applicant should state the estimated timeframe for such filing. An applicant which intends to provide service to customers by solely reselling the retail services of an underlying facilities-based CLEC is exempt from this requirement. A CLEC shall not start providing service before it files with the commission, for the commission's approval, an interconnection and/or transport and termination agreement with the ILEC and/or a resale agreement with another CLEC as required pursuant to this rule.

(F) Scope of operating authority

(1) The commission shall grant providers of competitive telecommunication services (CTS) statewide operating authority provided the company meets the associated requirements.

(2) The commission shall grant operating authority on an exchange basis to all companies seeking certification as a CLEC.

(3) A notice to amend a CLEC certificate to add additional exchanges, subsequent to certification, shall be filed as a zero-day notice to amend certificate (AAC). A CLEC must include with its AAC notice filing an affidavit signed by an authorized employee verifying that the CLEC has an interconnection and/or transport and termination traffic agreement with the ILEC serving the exchange area into which the

CLEC intends to expand and identifying the specific case numbers in which the agreements were filed.

(G) Nothing precludes the staff of the commission from requiring additional information consistent with this chapter.

(H) Certificate timeline

(1) Interested entities who can show good cause why such application should not be granted must file with the commission a written statement detailing the reasons, as well as a motion to intervene, within fifteen calendar days after the application is docketed. The applicant shall respond to any motion to intervene within seven calendar days after the filing and service of the motion.

(2) Absent full or partial suspension, applications seeking certification as a telephone company will be approved in accordance with the thirty-day automatic approval process described in rule 4901:1-6-08 of the Administrative Code.

(I) Conditions of approval It is the applicant's responsibility to satisfy the commission that the requirements of section 4905.24 of the Revised Code, have been met. Section 4905.24 of the Revised Code, conditions the approval of multiple entities providing service upon a finding by the commission that such operations are proper and necessary for the public convenience. For a provider of basic local exchange service, such determination shall include a review of the applicant's financial, managerial, and technical ability to provide the proposed service.

(J) Hearing

A hearing to review the application for certification may be ordered.

(K) Revocation of certificate

Nothing contained within these rules precludes the commission from revoking the certification of a CLEC or CTS provider upon a demonstration that the company has engaged in a pattern of conduct in violation of Ohio law. This includes the failure to comply with the rules and regulations of the commission, including the failure to file the requisite annual reports and the failure to pay all corresponding assessments.

Replaces: 4901:1-6-09

Effective: 09/18/2007

R.C. 119.032 review dates: 05/31/2012

Promulgated Under: 111.15

Statutory Authority: 4901.13

Rule Amplifies: 4901.13, 4927.03

Prior Effective Dates: 4/8/03

APPLICATION CHECK LIST

Please check the following list to make sure you have enclosed each and every item listed. Your application will not be processed until all items are received.

You will not have provisional authority to do business in Pennsylvania until you receive our acceptance letter.

- One original plus three copies of the Application and attachments, including original and three cover letters;**
- A check for \$250.00 made payable to “Commonwealth of Pennsylvania;”**
- Appropriate Department of State filing(s), in response to Question #5;**
- Articles of Incorporation (if a corporation), in response to Question #5;**
- Proposed Tariff(s), in response to Question #13;**
- Tentative operating balance sheet and projected income statement, in response to Question #14;**
- Certificate of Service evidencing Application was served upon appropriate parties, in response to Question #17;**
- Original signed and notarized Affidavit, in response to #22. CLEC Applicants (other than data-only CLECs) must include a listing of the 911 Coordinators notified by the Applicant;**
- Original signed and notarized Verification Statement, in response to Question #23.**

Application Form for Approval of Authority to Offer, Render, Furnish, or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania

The Commission certifies telecommunications carriers for four categories:

- ▶ Interexchange Toll Reseller
- ▶ Competitive Local Exchange Carrier
- ▶ Competitive Access Provider
- ▶ Interexchange Toll Facilities-Based Carrier

Please use the attached form to make your application. Please place all exhibits at the end of the application. If you retype the application, repeat the number and title of each item, following the original numbering scheme. Answer only those items that are applicable to your operations. Indicate skipped items as “not applicable.”

To file an application with the Pennsylvania Public Utility Commission, **you must submit a signed and verified original and three copies** of your application and attachments with a check for \$250.00 made payable to the “Commonwealth of Pennsylvania,” to the Commission’s Secretary at the following address:

Secretary
Pa. Public Utility Commission
Commonwealth Keystone Building
Second Floor - Room N201
Harrisburg, PA 17120

If your answer to any of the items changes while your application is pending, or if the information relative to any item herein changes while you are operating within the Commonwealth of Pennsylvania, you are under a duty to inform the Commission as to the specifics of the change. If you plan to cease doing business within the Commonwealth of Pennsylvania, you are under a duty to request approval from the Commission prior to ceasing business.

You may apply for more than one category of proposed operations in a single filing. To do so, you must separately identify and describe each category of proposed operations in your cover letter accompanying your application in response to Item Numbers 9, 10, 11, and 12 of Form 377. For multiple categories, your response to Item Numbers 10, 11, and 12 must each contain separate subparts, i.e., one subpart for each category of proposed operations.

Each category of proposed operations requires its own separate and distinct tariff. You must append a copy of all proposed tariffs to each original, duplicate original, and copy of Form 377.

Such related filings may be submitted as one filing pursuant to 52 Pa. Code §1.34, for the compilation of filing fees. The filing fee is \$250.00 for any combination of related applications filed simultaneously and pursuant to these instructions.

Application of:

_____, t/a _____,

for approval to offer, render, furnish or supply telecommunications services to the public in the Commonwealth of Pennsylvania.

1. IDENTITY OF THE APPLICANT: The name, address, telephone number, and fax number of the Applicant.

Please identify any predecessors of the Applicant and provide other names under which the Applicant has operated within the preceding five years, including name, address, and telephone number.

2. ATTORNEY: The name, address, telephone number, and fax number of the Applicant's attorney.

3. CONTACTS:

A) APPLICATION: The name, title, address, telephone number, and fax number of the person to whom questions about this application should be addressed.

B) PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY (PEMA): The name, title, address, telephone number and FAX number of the person with whom contact should be made by PEMA (Pennsylvania Emergency Management Agency).

C) RESOLVING COMPLAINTS: Name, address, telephone number, and FAX number of the person and an alternate person responsible for addressing customer complaints. These persons will ordinarily be the initial point(s) of contact for resolving complaints and queries filed with the Public Utility Commission or other agencies.

4. FICTITIOUS NAME:

- The Applicant will not be using a fictitious name.
- The Applicant will be using a fictitious name. Attach to the Application a copy of the Applicant's filing with the Commonwealth's Department of State pursuant to 54 Pa. C.S. §311, Form PA-953.

5. BUSINESS ENTITY AND DEPARTMENT OF STATE FILINGS:

- The Applicant is a sole proprietor.
- The Applicant is a:
 - General partnership
 - Domestic limited partnership (15 Pa. C.S. §8511)
 - *Foreign limited partnership (15 Pa. C.S. §8582)
 - Domestic registered limited liability partnership (15 Pa. C.S. §8201)
 - *Foreign registered limited liability general partnership (15 Pa. C.S. §8211)

*Provide name and address of Corporate Registered Office Provider or Registered Office within PA.

Attach to the application the name and address of partners. If any partner is not an individual, identify the business nature of the partner entity and identify its partners or officers.

Attach to the application proof of compliance with appropriate Department of State filing requirements as indicated above.

5. (Continued)

- The Applicant is a:
- Domestic corporation (15 Pa. C.S. §1306)
 - *Foreign corporation (15 Pa. C.S. §4124)
 - Domestic limited liability company (15 Pa. C.S. §8913)
 - *Foreign limited liability company (15 Pa. C.S. §8981)

*Provide name and address of Corporate Registered Office Provider or Registered Office within PA.

Attach proof of compliance with appropriate Department of State filing requirements as indicated above. Additionally, provide a copy of the Applicant's Articles of Incorporation or a Certificate of Organization.

The Applicant is incorporated in the State of _____.

Give name and address of officers:

6. AFFILIATES AND PREDECESSORS WITHIN PENNSYLVANIA:

- The Applicant has no affiliates doing business in Pennsylvania or predecessors which have done business in Pennsylvania.
- The Applicant has affiliates doing business in Pennsylvania or predecessors which have done business in Pennsylvania. Name and address of the affiliates. State whether they are jurisdictional public utilities. Give docket numbers for the authority of such affiliates.

If the Applicant or an affiliate has predecessors who have done business within Pennsylvania, give name and address of the predecessors and state whether they were jurisdictional public utilities. Give the docket numbers for the authority of such predecessors.

7. AFFILIATES AND PREDECESSORS RENDERING PUBLIC UTILITY SERVICE OUTSIDE PENNSYLVANIA:

- The Applicant has no affiliates rendering or predecessors which rendered public utility service outside Pennsylvania.
- The Applicant has affiliates rendering or predecessors which rendered public utility service outside Pennsylvania. Name and address of the affiliates and predecessors (please identify affiliates versus predecessors).

8. APPLICANT'S PRESENT OPERATIONS: (Select and complete the appropriate statement)

- The applicant is not presently doing business in Pennsylvania as a public utility.
- The applicant is presently doing business in Pennsylvania as a:
 - Interexchange Toll Reseller, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
 - Interexchange Toll Facilities-based carrier, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
 - Competitive Access Provider (dedicated point-to-point or multipoint service; voice or data)
 - Competitive Local Exchange Carrier:
 - Facilities-Based
 - UNE-P
 - Data Only
 - Reseller
 - Incumbent Local Exchange Carrier.
 - Other (Identify).

9. **APPLICANT'S PROPOSED OPERATIONS:** The Applicant proposes to operate as:
- Interexchange Toll Reseller, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
 - Interexchange Toll Facilities-based carrier, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
 - Competitive Access Provider (dedicated point-to-point or multipoint service; voice or data)
 - Competitive Local Exchange Carrier:
 - Facilities-based
 - UNE-P
 - Data Only
 - Reseller
 - Incumbent Local Exchange Carrier
 - Other (Identify).
10. **PROPOSED SERVICES:** Describe in detail the services which the Applicant proposes to offer. If proposing to provide more than one category in Item #9, clearly and separately delineate the services within each proposed operation. If proposing to operate as a facilities-based Competitive Local Exchange Carrier, provide a brief description of the Company's facilities.
11. **SERVICE AREA:** Describe the geographic service area in which the Applicant proposes to offer services. Clearly and separately delineate the service territory for each category listed in Item #9. For Competitive Local Exchange Carrier operations, you must name and serve the Incumbent Local Exchange Carriers in whose territory you request authority.

12. **MARKET:** Describe the customer base to which the Applicant proposes to market its services. Clearly and separately delineate a market for each category listed in Item #9.

13. **PROPOSED TARIFF(S):** Each category of proposed operations must have a separate and distinct proposed tariff setting forth the rates, rules and regulations of the Applicant. Every proposed tariff shall state on its cover page the nature of the proposed operations described therein, i.e., IXC Reseller, CLEC, CAP, or IXC Facilities-based. A copy of all proposed tariffs must be appended to each original and duplicate original and copy of Form 377.

14. **FINANCIAL: *Attach the following to the Application:***

A general description of the Applicant's capitalization and, if applicable, its corporate stock structure;

Current balance sheet, Income Statement, and Cash Flow Statement of Applicant or Affiliated Company, if relying on affiliate for financial security;

A tentative operating balance sheet and a projected income statement for the first year of operation within the Commonwealth of Pennsylvania; provide the name, title, address, telephone number and fax number of the Applicant's custodian for its accounting records and supporting documentation; and indicate where the Applicant's accounting records and supporting documentation are, or will be, maintained.

If available, include bond rating, letters of credit, credit reports, insurance coverage and reports, and major contracts.

15. **START DATE:** The Applicant proposes to begin offering services on or about _____.

16. **FURTHER DEVELOPMENTS:** Attach to the Application a statement of further developments, planned or contemplated, to which the present Application is preliminary or with which it forms a part, together with a reference to any related proceeding before the Commission.

17. **NOTICE:** Pursuant to 52 Pa. Code §5.14, you are required to serve a copy of the signed and verified Application, with attachments, on the below-listed parties, and file proof of such service with this Commission:

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Office of Attorney General
Office of Consumer Protection
Strawberry Square
Harrisburg, PA 17120

A certificate of service must be attached to the Application as proof of service that the Application has been served on the above-listed parties. A copy of any Competitive Local Exchange Carrier Application must also be served on any and/or all Incumbent Local Exchange Carrier(s) in the geographical area where the Applicant proposes to offer services.

18. **FEDERAL TELECOMMUNICATIONS ACT OF 1996:** State whether the Applicant claims a particular status pursuant to the Federal Telecommunications Act of 1996. Provide supporting facts.

19. **COMPLIANCE:** State specifically whether the Applicant, an affiliate, a predecessor of either, or a person identified in this Application has been convicted of a crime involving fraud or similar activity. Identify all proceedings, limited to proceedings dealing with business operations in the last five (5) years, whether before an administrative body or in a judicial forum, in which the Applicant, an affiliate, a predecessor of either, or a person identified herein has been a defendant or a respondent. Provide a statement as to the resolution or present status of any such proceedings.

- 20. FALSIFICATION:** The Applicant understands that the making of false statement(s) herein may be grounds for denying the Application or, if later discovered, for revoking any authority granted pursuant to the Application. This Application is subject to 18 Pa. C.S. §§4903 and 4904, relating to perjury and falsification in official matters.
- 21. CESSATION:** The Applicant understands that if it plans to cease doing business within the Commonwealth of Pennsylvania, it is under a duty to request authority from the Commission for permission prior to ceasing business.

Applicant:

By:

Title:

22. **AFFIDAVIT:** Attach to the Application an affidavit as follows:

AFFIDAVIT

[Commonwealth/State] of _____ :
: ss.
County of _____ :

_____, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

Affiant is the _____ (Office of Affiant) of _____ (Name of Applicant;)

That Affiant is authorized to and does make this affidavit for said corporation;

That _____, the Applicant herein, acknowledges that [he/she/it] may have an obligation to serve or to continue to serve the public by virtue of the Applicant commencing the rendering of service pursuant to this Application consistent with the Public Utility Code of the Commonwealth of Pennsylvania, Title 66 of the Pennsylvania Consolidated Statutes; with the Federal Telecommunications Act of 1996, signed February 6, 1996, or with other applicable statutes or regulations;

That _____, the Applicant herein, asserts that Affiant] possesses the requisite technical, managerial, and financial fitness to render public utility service within the Commonwealth of Pennsylvania and that the Applicant will abide by all applicable federal and state laws and regulations and by the decisions of the Pennsylvania Public Utility Commission.

***Next paragraph for CLEC Applicants ONLY (excluding data-only CLECS):**

That _____, the Applicant herein, asserts that Affiant has contacted the appropriate 911 Coordinator(s) via certified letter, from the list provided from the PUC web site (<http://www.puc.paonline.com>), and that arrangements are under way for the provisioning of emergency 911 service in each of the Counties/Cities where service is to be provided. The applicant certifies Affiant has attached a copy of the 911 Coordinator list indicating each 911 Coordinator contacted.

That the facts above set forth are true and correct] to the best of [Affiant knowledge, information and belief, and that Affiant expects said entity to be able to prove the same at any hearing thereof.

Signature of Affiant

Sworn and subscribed before me this _____ day of _____, _____.
Month Year

Signature of official administering oath

My Commission expires _____.

23. §1.36 Verification.

Verification

I, _____, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief), and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date

Signature

Document Retrieval Result



66 Pa.C.S.A. § 1101

§ 1101. Organization of public utilities and beginning of service
Effective: [See Text Amendments]

66 Pa.C.S.A. § 1101

Purdon's Pennsylvania Statutes and Consolidated Statutes [Currentness](#)

Title 66 Pa.C.S.A. Public Utilities (Refs & Annos)

Part I. Public Utility Code (Refs & Annos)

Subpart C. Regulation of Public Utilities Generally (Refs & Annos)

Chapter 11. Certificates of Public Convenience (Refs & Annos)

Subchapter A. General Provisions (Refs & Annos)

➔ **§ 1101. Organization of public utilities and beginning of service**

Upon the application of any proposed public utility and the approval of such application by the commission evidenced by its certificate of public convenience first had and obtained, it shall be lawful for any such proposed public utility to begin to offer, render, furnish, or supply service within this Commonwealth. The commission's certificate of public convenience granted under the authority of this section shall include a description of the nature of the service and of the territory in which it may be offered, rendered, furnished or supplied.

CREDIT(S)

1978, July 1, P.L. 598, No. 116, § 1, effective in 60 days.

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

Prior Laws:

1963, Aug. 24, P.L. 1225, § 1.

1937, May 28, P.L. 1053, art. II, § 201 (66 P.S. § 1121).

1913, July 26, P.L. 1374, No. 854, art. III, § 2.

66 Pa.C.S.A. § 1101, PA ST 66 Pa.C.S.A. § 1101

Current through Act 2010-59

© 2010 Thomson Reuters.
END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.
Adobe Reader is required to view PDF images.



Westlaw, part of Thomson Reuters

[© 2010 West](#) | [Privacy](#) | [Accessibility](#)

Document Retrieval Result

**66 Pa.C.S.A. § 1102**

§ 1102. Enumeration of acts requiring certificate
Effective: [See Text Amendments]

66 Pa.C.S.A. § 1102

Purdon's Pennsylvania Statutes and Consolidated Statutes [Currentness](#)

Title 66 Pa.C.S.A. Public Utilities (Refs & Annos)

Part I. Public Utility Code (Refs & Annos)

Subpart C. Regulation of Public Utilities Generally (Refs & Annos)

Chapter 11. Certificates of Public Convenience (Refs & Annos)

Subchapter A. General Provisions (Refs & Annos)

➔ **§ 1102. Enumeration of acts requiring certificate**

(a) General rule.--Upon the application of any public utility and the approval of such application by the commission, evidenced by its certificate of public convenience first had and obtained, and upon compliance with existing laws, it shall be lawful:

(1) For any public utility to begin to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized by:

(i) A certificate of public convenience granted under this part or under the former provisions of the act of July 26, 1913 (P.L. 1374, No. 854), known as "The Public Service Company Law," [\[FN1\]](#) or the act of May 28, 1937 (P.L. 1053, No. 286), known as the "Public Utility Law." [\[FN2\]](#)

(ii) An unregistered right, power or privilege preserved by section 103 (relating to prior rights preserved).

(2) For any public utility to abandon or surrender, in whole or in part, any service, except that this provision is not applicable to discontinuance of service to a patron for nonpayment of a bill, or upon request of a patron.

(3) For any public utility or an affiliated interest of a public utility as defined in section 2101 (relating to definition of affiliated interest), except a common carrier by railroad subject to the Interstate Commerce Act, [\[FN3\]](#) to acquire from, or to transfer to, any person or corporation, including a municipal corporation, by any method or device whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service. Such approval shall not be required if:

(i) the undepreciated book value of the property to be acquired or transferred does not exceed \$1,000;

(ii) the undepreciated book value of the property to be acquired or transferred does not exceed the lesser of:

(A) 2% of the undepreciated book value of all fixed assets of such public utility; or

(B) \$5,000 in the case of personalty or \$50,000 in the case of realty;

(iii) the property to be acquired is to be installed new as a part of or consumed in the operation of the used and useful property of such public utility; or

(iv) the property to be transferred by such public utility is obsolete, worn out or otherwise unserviceable.

Subparagraphs (i) through (iv) shall not be applicable, and approval of the commission evidenced by a certificate of public convenience shall be required, if any such acquisition or transfer of property involves a transfer of patrons.

(4) For any public utility to acquire 5% or more of the voting capital stock of any corporation.

(5) For any municipal corporation to acquire, construct, or begin to operate, any plant, equipment, or other facilities for the rendering or furnishing to the public of any public utility service beyond its corporate limits.

DDM 000558

(b) Protection of railroad employees.--As a condition of its approval of any transaction covered by this section and involving those railroad carriers wholly located within this Commonwealth subject to the provisions of this part, the commission shall require a fair and equitable arrangement to protect the interests of the railroad employees affected and the commission shall include in its order of approval the terms and conditions it deems fair and equitable for the protection of the employees. The terms and conditions which the commission prescribes shall provide that, during the period of four years from the effective date of the order, the employees of the railroad carrier affected by the order shall not be in a worse position with respect to their employment except that any protection afforded an employee shall not be required to continue for a period longer than that during which the employee was in the employ of the railroad carrier prior to the effective date of the order. Notwithstanding any other provision of this section, the commission may accept as fair and equitable an agreement pertaining to the protection of the interests of the employees entered into by the railroad carrier and the duly authorized representatives of the employees.

CREDIT(S)

1978, July 1, P.L. 598, No. 116, § 1, effective in 60 days.

[\[FN1\]](#) 66 P.S. § 1 et seq. (repealed).

[\[FN2\]](#) 66 P.S. § 1101 et seq. (repealed).

[\[FN3\]](#) 49 U.S.C.A. § 1 et seq.

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

Prior Laws:

1976, Oct. 7, P.L. 1057, No. 215, § 2.

1971, July 14, P.L. 222, No. 44, § 1.

1963, Aug. 24, P.L. 1225, § 2.

1939, June 19, P.L. 419, § 1.

1938, Sp.Sess., Sept. 28, P.L. 44, § 1.

1937, May 28, P.L. 1053, Art. II, § 202 (66 P.S. § 1122).

1913, July 26, P.L. 1374, No. 854, Art. III, § 3, Art. V, § 18.

66 Pa.C.S.A. § 1102, PA ST 66 Pa.C.S.A. § 1102

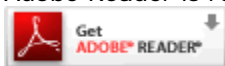
Current through Act 2010-59

© 2010 Thomson Reuters.

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Adobe Reader is required to view PDF images.



Westlaw, part of Thomson Reuters

[© 2010 West](#) | [Privacy](#) | [Accessibility](#)



DDM 000559

Document Retrieval Result

**66 Pa.C.S.A. § 1103**

§ 1103. Procedure to obtain certificates of public convenience

Effective: March 12, 2005

66 Pa.C.S.A. § 1103

Purdon's Pennsylvania Statutes and Consolidated Statutes [Currentness](#)

Title 66 Pa.C.S.A. Public Utilities (Refs & Annos)

Part I. Public Utility Code (Refs & Annos)

Subpart C. Regulation of Public Utilities Generally (Refs & Annos)

Chapter 11. Certificates of Public Convenience (Refs & Annos)

Subchapter A. General Provisions (Refs & Annos)

➔ § 1103. Procedure to obtain certificates of public convenience

(a) General rule.--Every application for a certificate of public convenience shall be made to the commission in writing, be verified by oath or affirmation, and be in such form, and contain such information, as the commission may require by its regulations. A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable. In every case, the commission shall make a finding or determination in writing, stating whether or not its approval is granted. Any holder of a certificate of public convenience, exercising the authority conferred by such certificate, shall be deemed to have waived any and all objections to the terms and conditions of such certificate.

(b) Investigations and hearings.--For the purpose of enabling the commission to make such finding or determination, it shall hold such hearings, which shall be public, and, before or after hearing, it may make such inquiries, physical examinations, valuations, and investigations, and may require such plans, specifications, and estimates of cost, as it may deem necessary or proper in enabling it to reach a finding or determination.

(c) Deleted by 2002, Dec. 30, P.L. 2001, No. 230, § 8(2)(iv), effective Feb. 28, 2003; 2004, July 16, P.L. 758, No. 94, § 19, effective March 12, 2005.

(d) Temporary authority.--Except during the threat or existence of a labor dispute, the commission under such regulations as it shall prescribe may, without hearing, in proper cases, consider and approve applications for certificates of public convenience, and in emergencies grant temporary certificates under this chapter, pending action on permanent certificates; but no applications shall be denied without right of hearing thereon being tendered to the applicant.

(e) Armored vehicles.--A certificate of public convenience to provide the transportation of property of unusual value, including money and securities, in armored vehicles shall be granted by order of the commission upon application. Such carriers must conform to the rules and regulations of the commission.

CREDIT(S)

1978, July 1, P.L. 598, No. 116, § 1, effective in 60 days. Amended 1980, June 19, P.L. 244, No. 69, § 1, effective in 30 days; 1984, July 6, P.L. 602, No. 123, § 2, imd. effective; 1990, April 4, P.L. 93, No. 21, §

DDM 000560

1, effective in 90 days. Affected by 2002, Dec. 30, P.L. 2001, No. 230, § 8(2)(iv), effective Feb. 28, 2003; 2004, July 16, P.L. 758, No. 94, § 19, effective March 12, 2005.

HISTORICAL AND STATUTORY NOTES

2010 Electronic Pocket Part Update

Act 2002-230 legislation

Subsec. (c) was repealed by 2002, Dec. 30, P.L. 2001, No. 230, § 8(2)(iv), effective in 60 days. Act 2002-230 was subsequently held unconstitutional in its entirety by the Pennsylvania Supreme Court in *City of Philadelphia v. Com.*, 575 Pa. 542, 838 A.2d 566 (Pa. 2003) as having been enacted in violation of the single subject rule of the State Constitution.

Act 2004-94 legislation

Section 20 of 2004, July 16, P.L. 758, No. 94, imd. effective, provides in part that "[t]he following provisions shall not apply to or affect the validity of any contract otherwise within the purview of such provisions entered into by the Pennsylvania Public Utility Commission prior to the effective date of this section:"

"(5) Section 19 of this act [repealing 66 Pa.C.S.A. §§ 510(b)(5) and 1103(c) and 66 Pa.C.S.A. Ch. 24]."

Section 21 of 2004, July 16, P.L. 758, No. 94, imd. effective, provides that "[t]he following provisions do not affect any act done, liability incurred or right accrued or vested or affect any civil or criminal proceeding pending or to be commenced to enforce any right or penalty or punish any offense under any provision of law repealed by section 19 of this act:

"(1) The reenactment of 53 Pa.C.S. § 5508.1(o).

"(2) The reenactment of 53 Pa.C.S. § 5508.2.

"(3) The reenactment of 53 Pa.C.S. §§ 5510.1 through 5510.11.

"(4) The reenactment, amendment or addition of 53 Pa.C.S. §§ 5701, 5701.1, 5702, 5703, 5704, 5705, 5706, 5707, 5711, 5712, 5713, 5714, 5715, 5716, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5741, 5741.1, 5742, 5743, 5744 and 5745.

"(5) The provisions of 66 Pa.C.S. §§ 510(b)(5) and 1103(c) and Ch. 24.

"(6) Section 20 of this act.

"(7) Section 22 of this act.

"(8) Section 24 of this act."

2000 Main Volume

Section 22 of 2004, July 16, P.L. 758, No. 94, provides that "[t]he following shall apply:

"(1) The Pennsylvania Public Utility Commission's appropriations, allocations, documents, records, equipment, materials, powers, duties, contracts, rights and obligations which are utilized or accrue in connection with the functions under 66 Pa.C.S. Ch. 24 and in connection with limousine regulation in cities of the first class shall be transferred to the Philadelphia Parking Authority in accordance with an agreement between the commission and the authority.

"(2) Regulations, orders, programs and policies of the commission under 66 Pa.C.S. Ch. 24 and concerning limousine service regulation within cities of the first class shall remain in effect until specifically amended, rescinded or altered by the authority.

"(3) The State Treasurer shall coordinate with the authority and transfer the First Class City Taxicab Regulatory Fund to the authority. Upon transfer, fiduciary responsibility over the fund shall pass from the State Treasurer to the authority.

"(4) The commission shall assist the authority to prepare for the transfer and to ensure a smooth transition with as little disruption as possible to public safety, consumer convenience and the impacted industries. The commission and the authority are empowered to resolve by mutual agreement any jurisdictional issues that may be associated with the transfer. Any agreement shall be reported to the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives and will be considered effective unless either the Senate or the House of Representatives rejects the submitted agreement by resolution within ten legislative days of submission. Upon becoming effective, an agreement shall be published in the Pennsylvania Bulletin.

"(4.1) Any revenues generated by a taxicab or limousine while operating under the jurisdiction of the authority shall be exempt from assessment by the commission. The provisions of this paragraph shall have no effect on the fees allowed to be charged by the authority in accordance with the provisions of section 5707.

"(5) As soon as is practical but no later than 60 days after the effective date of this paragraph, subject to negotiations between the commission and the authority, the authority shall notify all current employees of the commission whose jobs would be impacted by the transfer of its intention to hire. All employees who receive and accept offers to be transferred shall be employees of the authority, and the authority shall make provisions to transfer longevity credits, payroll credits and other personnel benefits, except for retirement accounts, in a fair and reasonable manner. Notwithstanding the provisions of 53 Pa.C.S. §§ 5505(d)(8) and (20) and 5508.1(1), any ordinance of any city of the first class or any agreement or contract between a city of the first class and the authority, the pension and retirement rights of employees of the commission at the time of the transfer whose jobs are impacted by the transfer and who receive and accept offers to be transferred and be employees of the authority upon the transfer of the funds and programs pursuant to this section shall be determined by the provisions of 71 Pa.C.S. Pt. XXV, and for such employees the authority shall have the obligations and duties of employers under Pt. XXV. The authority shall make every reasonable effort to provide a position similar to that held with the commission.

"(6) Reasonable costs of transfer of the Pennsylvania Public Utility Commission shall be paid by the First Class City Taxicab Regulatory Fund.

"(7) Employees of the Philadelphia Parking Authority who were employees of the Pennsylvania Public Utility Commission immediately prior to becoming employees of the Philadelphia Parking Authority and who have been continuously employed by the Philadelphia Parking Authority since the time of becoming an employee of the Philadelphia Parking Authority shall not, after termination of service from the Philadelphia Parking Authority, be considered to be State employees or performing State service if subsequently reemployed as an officer or employee of the Philadelphia Parking Authority."

Section 24 of 2004, July 16, P.L. 758, No. 94, imd. effective, provides that "[t]he Pennsylvania Public Utility Commission shall transmit notice of the entry into the agreement under section 22(4) of this act to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin."

Section 25 of 2004, July 16, P.L. 758, No. 94, imd. effective, provides that "[t]his act shall take effect as follows:

"(1) The following provisions shall take effect in 270 days [April 12, 2005] or on the date of publication of the notice under section 24 of this act, whichever is earlier:

"(i) The addition of 53 Pa.C.S. Ch. 57.

"(ii) Section 19 of this act.

"(iii) Section 22(4.1) and (7) of this act.

"(2) The remainder of this act shall take effect immediately."

Jurisdictional Agreement between the Pennsylvania Public Utility Commission and the Philadelphia Parking Authority was published at 35 Pa.B. 1737, on March 12, 2005.

Sections 2 and 3 of Act 1980, June 19, P.L. 244, No. 69, provide:

"Section 2.

"Upon the effective date of this act, every certificate of public convenience for taxicab service in any city of the first class heretofore or hereinafter issued by the Pennsylvania Public Utility Commission shall be deemed a single, sole certificate of public convenience for taxicab service for the operation of one vehicle in such service. Every present holder of a certificate of public convenience for taxicab service in a city of the first class shall be entitled to automatically receive, from the commission, the number of individual certificates of public convenience which will correspond to the total number of vehicles permitted to be operated under their respective certificates of public convenience in effect prior to the effective date of this amendatory act. Leases of taxicabs will be covered by any existing or expiring collective bargaining agreement between the lessor-holder of franchise and any labor organization.

"Section 3.

"The Pennsylvania Public Utility Commission shall report to the Senate and House Consumer Affairs Committees within one year after the effective date of this act, and annually thereafter, the number of

certificates of public convenience to provide taxicab service in cities of the first class which are then in effect and how many applications for such certificates are then awaiting disposition by the commission."

Section 4 of Act 1980, June 19, P.L. 244, No. 69 provides:

"Except for 66 Pa.C.S. § 1103(c)(4), which shall take effect in 30 days, the remainder of this act shall take effect immediately. This act applies to all pending applications and those to be filed as of the effective date of this act. It is mandatory, however, that every taxi operated in the city be linked to a central radio service."

Prior Laws:

1937, May 28, P.L. 1053, art. II, § 203 (66 P.S. § 1123).

1913, July 26, P.L. 1374, No. 854, art. V, §§ 18, 19.

66 Pa.C.S.A. § 1103, PA ST 66 Pa.C.S.A. § 1103

Current through Act 2010-59

© 2010 Thomson Reuters.
END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.
Adobe Reader is required to view PDF images.



Westlaw, part of Thomson Reuters

[© 2010 West](#) | [Privacy](#) | [Accessibility](#)



**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held March 11, 2010

Commissioners Present:

James H. Cawley, Chairman
Tyrone J. Christy, Vice Chairman
Wayne E. Gardner
Robert F. Powelson

Application of NTELOS of West Virginia Inc. d/b/a NTELOS for approval to offer, render, furnish or supply telecommunication services as a Competitive Local Exchange Carrier to the public in the Commonwealth of Pennsylvania in the service territories of:

Verizon Pennsylvania Inc.	A-2009-2148183
Verizon North Inc., and	A-2009-2148184
The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink	A-2009-2148185

Application of NTELOS of West Virginia Inc. d/b/a NTELOS for approval to offer, render, furnish or supply telecommunication services as a Reseller of Interexchange Toll Services to the public in the Commonwealth of Pennsylvania.	A-2009-2148186
--	----------------

Application of NTELOS of West Virginia Inc. d/b/a NTELOS for approval to offer, render, furnish or supply telecommunication services as a Facilities-based Interexchange Carrier to the public in the Commonwealth of Pennsylvania.	A-2009-2148187
---	----------------

Application of NTELOS of West Virginia Inc. d/b/a NTELOS for approval to offer, render, furnish or supply telecommunication services as a Competitive Access Provider to the public in the Commonwealth of Pennsylvania.	A-2009-2148188
--	----------------

ORDER

BY THE COMMISSION:

On November 20, 2009, Ntelos of West Virginia Inc. d/b/a NTELOS (Applicant) filed an Application seeking Certificates of Public Convenience pursuant to the Telecommunications Act of 1996, 47 U.S.C. § § 201, *et seq.*, (TA-96)¹ and to Chapter 11 of the Public Utility Code (Code) (66 Pa. C.S. § 1101, *et seq.*) evidencing authority to provide the following telecommunication services to the public:

- (1) As a Competitive Local Exchange Carrier (CLEC) in the service territories of Verizon Pennsylvania Inc., Verizon North Inc. (collectively Verizon), and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink within the Commonwealth of Pennsylvania,
- (2) As a detariffed Reseller and Facilities-Based Interexchange Carrier (IXC)² throughout the Commonwealth of Pennsylvania, and
- (3) As a Competitive Access Provider (CAP) throughout the Commonwealth of Pennsylvania.

The Applicant was granted provisional authority pursuant to our Secretarial Letter of December 18, 2009 to provide the proposed IXC Reseller/Facilities-Based (detariffed) and CAP services throughout the Commonwealth of Pennsylvania and CLEC services in the Verizon service areas pursuant to its proposed CLEC tariffs during the pendency of the application process. The Applicant requested and was granted a waiver

¹ Market entry requirements, in light of the policy objectives of the TA-96, for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (*Implementation Order*: June 3, 1996; and *Implementation Reconsideration Order*: September 9, 1996); herein *TA-96 Implementation Orders*.

² 66 Pa C.S. § 3018(b)(2) gives IXCs the option to (1) file and maintain tariffs with the Commission, (2) file and maintain price lists with the Commission, or (3) detariff. Further, 52 Pa. Code § 63.104 outlines the disclosure requirements for filing and maintaining tariffs or operating as a detariffed IXC. The Applicant was provided with these options via Secretarial Letter and has elected to operate as a detariffed IXC, subject to Pennsylvania state contract and consumer protection laws.

of the newspaper publication requirement for CLEC entry into the CenturyLink service territory. The assigned utility code is 3111651.

The Applicant complied with notice requirements set forth in our *TA-96 Implementation Orders*³ by serving a copy of its Application upon the aforementioned incumbent local exchange carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Attorney General. No protests were filed. No hearings were held.

Information concerning the Applicant is as follows:

- The Applicant is a Virginia Corporation with its principal place of business at 401 Spring Lane, Waynesboro, Virginia 22980, telephone (540) 946-3500, facsimile (540) 946-3595.
- The Applicant complied with 15 Pa. C.S. § 4124, relating to a foreign corporation.
- The Applicant's registered office provider within Pennsylvania is Corporate Service Company, 2704 Commerce Drive, Harrisburg, Pennsylvania 17110.
- The Applicant's Pennsylvania Emergency Management Agency contact is Bob Berry, Operations North Manager, 524 West Broad Street, Waynesboro, Virginia 22980, telephone (540) 941-4800, facsimile (540) 943-3459.
- Correspondence to resolve complaints may be directed to Tena Turner, 1154 Shenandoah Village Drive, Waynesboro, Virginia 22980, telephone (540) 941-9800, facsimile (540) 943-5001.
- The Applicant will be using a fictitious name: NTELOS.
- The Applicant is operating as a CLEC in West Virginia.

³ See Note 1, above.

- The Applicant has one affiliate operating as a Wireless Provider (not a public utility) within Pennsylvania: NTELOS PCS North Inc.
- The Applicant has affiliates rendering public utility service outside Pennsylvania: NTELOS Telephone Inc. (ILEC - Virginia), Roanoke & Botetourt Telephone Company (ILEC - Virginia), NTELOS Network, Inc. (CLEC - Virginia and West Virginia), R&B Network, Inc. (CLEC – Virginia), NA Communications Inc. (CLEC – Tennessee and Virginia).

The Applicant understands that if it plans to cease doing business within the Commonwealth of Pennsylvania, it is under a duty to request authority from the Commission for permission prior to ceasing.

The Applicant will offer other carriers access to their 2,200 route-mile fiber network which provides connectivity to major cities. Also, the Applicant will sell backhaul services to major wire line and wireless carriers including connectivity to cell sites located near the company's fiber network in their Competitive and RLEC markets. Other services offered are Metro Ethernet, IP Services and High-capacity Private Line Service.

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.⁴ A CLEC Applicant is expected to adhere to the requirements relative to universal service programs, as initially set forth or as subsequently enlarged or modified.⁵ Also, per federal rules, CLECs are required to ensure the efficient usage of their numbering resources and are required to semi-annually report their utilization and forecast data to the North American Numbering Plan Administrator. See 47 C.F.R. § 52.5 *et seq.* Any CLEC failing to comply with state and/or federal commission orders related to numbering may be subject to the reclamation

⁴ See, e.g., *MFS Intelenet, et al.*, Docket Nos. A-310203F0002, *et al.*, (October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell*, Docket No. R-00963578; *Pa. PUC v. GTE*, Docket No. R-00963666; *Global Order*, Docket Nos. P-00991648 and P-00991649; as well as other CLEC proceedings.

⁵ *Universal Service Investigation*, Docket No. I-00940035 (January 28, 1997).

of their numbering resources as well as fines pursuant to the Public Utility Code, 66 Pa. C.S. § 3301. See *Implementation of Numbering Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released March 31, 2000 – NXX Code Reclamation*, Docket No. M-00001373 (Order entered August 22, 2000), 30 Pa. B. 4701 (September 2, 2000)(Commission established process for reclaiming NXX codes from carriers who have failed to activate them within 6 months of their availability for assignment to customers).

Further, Section 253(b) of the TA-96 permits a state Commission to impose, on a competitively neutral basis and consistent with the Universal Service Section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunication services, and safeguard the rights of consumers. In response, we articulated explicit concerns relative to an applicant's financial fitness, tariff compliance, and rates.⁶ In this case, the Applicant has provided financial information to support its Application. We conclude that the Applicant has demonstrated that it is financially capable of providing telecommunication services as a CLEC, an IXC Reseller/ Facilities-based Interexchange Carrier, and as a CAP.

The Commission requires that Applicants seeking to provide local telecommunications services in Pennsylvania take steps to protect the public safety of consumers. One means of ensuring the public safety of consumers in the increasingly competitive telecommunications marketplace is to ensure that new entrants provide their consumers with access to a seamless communications infrastructure for emergency services, such as 911. Therefore, in accordance with the notarized Affidavit (item #22 in the Application), the Applicant avers that it has contacted each county or municipal authority where it intends to provide CLEC telecommunications service and made the necessary arrangements for the provisioning of emergency 911 service.

⁶ *Blue Ribbon*, Docket No. A-310442 (April 25 and August 4, 1997).

We conclude that the Applicant has met the requirements for certification as a CLEC, an IXC Reseller/Facilities-based IXC, and as a CAP,⁷ consistent with this Order. Premised upon our review of the Application and the proposed tariffs, and consistent with our Orders, the Code, our Regulations and the TA-96, we conclude that the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability, or privacy. We note, however, deficiencies in the proposed tariffs.

We shall direct the Applicant to revise the proposed tariffs in accordance with the changes noted in Appendix A of this Order.⁸ The Applicant shall thereafter file its Initial Tariffs reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. The Applicant may file its Initial Tariffs electronically, consistent with Commission Rules.⁹ Copies of the Initial Tariffs shall also be served upon the same entities receiving service of the original Application, including the incumbent local exchange carriers. If the time required for such resolution and filing exceeds sixty (60) days, the Applicant may request an extension of an additional sixty (60) days with the Commission's Secretary. Thus, if the Initial Tariffs are not filed within 60 days (120 days including the extension) of the entry of this Order, the Application will be dismissed and the authority granted herein will be revoked without further Commission Order.

We note that the Commission will only approve tariff provisions regarding limitation of liability consistent with law. The Commission does not have jurisdiction to determine liability or award monetary damages. Any tariff provisions contained in the Initial Tariffs regarding limitation of liability found to be inconsistent with any applicable laws, rules and regulations will be deemed inoperative and superseded. Any claim

⁷ CAP authority may not be used to access the Public Switched Network or toll calling. If a utility with CAP authority wishes to provide access to the Public Switched Network or to provide local or interexchange (intraLATA or interLATA) calling services to its customers, the utility must also have been granted CLEC and/or Interexchange authority by this Commission.

⁸ Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, the TA-96, or our Regulations or Orders will be deemed inoperative and superseded.

⁹ See *Final Rulemaking to Permit Electronic Filing*, Docket No. L-00070187, Order entered May 23, 2008.

against the public utility and/or public utility's customer regarding liability outside the limited scope of the tariff must be filed in court for determination of liability and monetary damages.

To the extent that the proposed tariffs contain rates, the Initial Tariffs may become effective on one (1) day's notice from the date upon which they are filed and served.

Further, the Commission makes no determination whether the Applicant's switched access rates are in compliance with Act 183 of 2004.¹⁰

Conclusion

Accordingly, we shall grant the Application. We shall issue Certificates of Public Convenience evidencing the Applicant's authority to provide services as an IXC Reseller and Facilities-based IXC upon entry of this order. Also, upon the establishment of filed rates and the approval of the Initial Tariffs, Certificates of Public Convenience shall be issued evidencing the Applicant's authority to provide services as a CLEC in the service territories of Verizon Pennsylvania Inc., Verizon North Inc., and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink, and as a CAP in the Commonwealth of Pennsylvania, consistent with this Order and our decisions in the *MFS Intelenet* and such other proceedings; **THEREFORE,**

IT IS ORDERED:

1. That the Application of NTELOS of West Virginia Inc. d/b/a NTELOS at Docket Nos. A-2009-2148183, A-2009-2148184, and A-2009-2148185, for authority to operate as a Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania Inc., Verizon North Inc., and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink, is granted, consistent with this Order.

¹⁰ Act 183, P.L. 1398 (66 Pa. C.S § 3017(c)).

2. That the Application of NTELOS of West Virginia Inc. d/b/a NTELOS at Docket No. A-2009-2148186, for authority to operate as a Reseller of Interexchange Toll Services throughout the Commonwealth of Pennsylvania, is granted, consistent with this Order and that a Certificate of Public Convenience be issued evidencing such approval.

3. That the Application of NTELOS of West Virginia Inc. d/b/a NTELOS at Docket No. A-2009-2148187, for authority to operate as a Facilities-based Interexchange Carrier throughout the Commonwealth of Pennsylvania, is granted, consistent with this Order and that a Certificate of Public Convenience be issued evidencing such approval.

4. That the Application of NTELOS of West Virginia Inc. d/b/a NTELOS at Docket No. A-2009-2148188, for authority to operate as a Competitive Access Provider throughout the Commonwealth of Pennsylvania, is granted, consistent with this Order.

5. That the Applicant shall either eFile or submit an original and three copies of its Initial Tariffs consistent with the requisite changes noted in Appendix A of this Order within sixty (60) days (120 days including an approved extension) after the date of entry of this Order. **The Applicant is directed to identify any changes made to the proposed Initial Tariffs that are in addition to the changes noted in Appendix A.** The Applicant shall serve copies of its Initial Tariffs on each entity receiving a copy of the original Application. The Initial Tariffs may become effective on or after one (1) day's notice from the date upon which they are filed and served.

6. That the Initial Tariff shall be labeled: "Competitive Local Exchange Carrier Tariff," "Competitive Local Exchange Carrier Switched Access Tariff," and "Competitive Access Provider Tariff."

7. That the Applicant shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulations, and Orders of this Commission, now in effect or as may be prescribed by this Commission, including but not limited to: the *MFS Intelenet, et al.*, Docket Nos. A-310203F0002, *et al.*; the *Universal Service Investigation*, Docket No. I-00940035; the *Global Order*, Docket No. P-00991648, *et al.*; and the *NXX Code Reclamation*, Docket No. M-00001373.

8. That if the Applicant expands its local service into new counties in its currently authorized area of Verizon Pennsylvania Inc., Verizon North Inc., and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink, Applicant shall contact the appropriate 911 coordinators, complete appropriate documents for 911 service for each, and provide the service list to said 911 coordinators with its tariff revisions as verification that arrangements are underway for the provisioning of Emergency 911 service in the additional exchanges.

9. That if the Applicant should desire to expand its service territory to that of additional incumbent local exchange carriers, Applicant shall file an Application to amend its Certificate of Public Convenience and comply with all the requirements of the Application, including the completion of the affidavit and requirements thereto concerning Emergency 911 service.

10. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right to the Applicant.

11. That the Applicant maintains accurate accounting records that segment its CLEC, IXC, and CAP revenues in the state.

12. That in accordance with Commission Orders entered on October 5, 2005 at M-00041857 and on August 21, 2006 at L-00050176, the Applicant

shall follow the reporting requirements outlined at the following website:

http://www.puc.state.pa.us/telecom/docs/Reporting_Requirements0409.doc

13. That the Applicant shall file such affiliated interest agreements as may be necessary relative to any transactions with affiliates within thirty (30) days of entry of this Order.

14. That the Applicant shall make 711 abbreviated dialing available to access Telecommunications Relay Service and to arrange its switching equipment to translate these calls to the assigned toll-free number, (888) 895-1197, in order to route calls to the Telecommunications Relay Service Provider, in accordance with the Commission's Order entered on February 4, 2000, at Docket No. M-00900239.

15. That in the event that the Applicant has not, on or before sixty (60) days (120 days including an approved extension) from the date of entry of this Order, complied with the requirements set forth herein, the Application at Docket Nos. A-2009-2148183, A-2009-2148184, A-2009-2148185, and A-2009-2148188 shall be dismissed and the authority granted herein revoked without further Commission Order.

16. That upon the approval of the Initial Tariffs, Certificates of Public Convenience shall be issued authorizing the Applicant to furnish services as a Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania Inc., Verizon North Inc., and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink and to furnish services as a Competitive Access Provider throughout the Commonwealth of Pennsylvania, consistent with this Order.

17. That changes and/or additions made to an approved, filed tariff shall be made in the form of supplements, consecutively numbered in the order of their filing dates, and the tariff designation shall be in the following manner: Supplement No. __ to Tariff Telephone Pa. P.U.C. No.____.

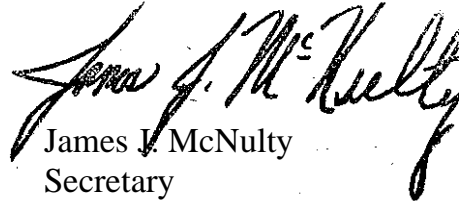
18. That the Applicant shall add its Pennsylvania tariffs to its website, if it has one. If the Applicant does not maintain a website, the Pennsylvania Public Utility Commission will host its tariffs on the Commission's website

- Within 30 days of the filing of its Initial Tariffs, the Applicant shall add the tariffs to its website and mark them “Pending.”
- Within 30 days of receipt of its Certificates of Public Convenience, the Applicant shall make any required modifications to the tariffs on its website and remove the “Pending” notation. Thereafter, the Applicant will continually update the website whenever any supplemental revisions to the tariffs are approved by the Commission such that the website tariffs are a true and accurate representation of tariffs on file with the Commission.
- The Applicant shall contact Cyndi Page ((717) 787-5722; cypage@state.pa.us) of the Commission’s Communications Office to create a link from the Commission’s website to the Applicant’s website.
- If the Applicant does not maintain a website, the Applicant shall contact Cyndi Page to have its tariffs added to the Commission's website and to update the tariffs upon subsequent approval of supplemental revisions to the tariffs.

19. That if the Applicant plans to cease doing business within the Commonwealth of Pennsylvania, it shall request authority from the Commission for permission prior to ceasing.

20. That a copy of this Order be served on the Pennsylvania Department of Revenue, Bureau of Corporation Tax and the PEMA (Pennsylvania Emergency Management Agency) Bureau of 9-1-1 Programs.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: March 11, 2010

ORDER ENTERED: March 12, 2010

NTELOS of West Virginia Inc. d/b/a NTELOS

Docket Nos. A-2009-2148183, A-2009-2148184, A-2009-2148185, and A-2009-2148188

Proposed tariffs for
Competitive Local Exchange Carrier Service and
Competitive Access Provider

The proposed tariffs contain certain deficiencies that must be addressed by the Applicant before the tariffs can be approved and the Certificates of Public Convenience issued. **The Applicant must submit a copy of this Appendix with its revised compliance tariffs. On that copy, please note the page/sheet of the compliance tariffs where the required revision is located for each item below.**

Tariff deficiencies noted – CLEC Local Tariff No. 1

1. Correct the Title to read:

NTELOS of West Virginia Inc. d/b/a NTELOS
COMPETITIVE LOCAL EXCHANGE CARRIER
Business Only Services
Regulations and Schedule of Charges

2. Add the following text to the Title Page after the above:

- The Company will mirror the exchange area boundaries as stated in the tariffs of Verizon Pennsylvania Inc. Telephone Pa. P.U.C. Nos. 180A; Verizon North Inc. Telephone Pa P.U.C. Nos. 1, 3, 5, and 6; and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink Pa. P.U.C. No. 27.
- The Company's tariff is in concurrence with all applicable State and Federal Laws (including, but not limited to, 52 Pa. Code, 66 Pa. C.S. and the Telecommunications Act of 1934, as amended), and with the Commission's applicable Rules and Regulations and Orders. Any provisions contained in this Tariff that are inconsistent with the foregoing mentioned will be deemed inoperative and superseded.

3. All Pages: Enter issued and effective dates as per ordering paragraph.

4. All Pages: Add "d/b/a NTELOS" to the end of the Company's name in the top right corner of the header. Also, add "Competitive Local Exchange Carrier" to the bottom portion of the header and then center the text appropriately.

5. Table of Contents: Insert a comprehensive Table of Contents (TOC) at the beginning of the tariff. At the Company's discretion, the individual TOC preceding each section may be removed or retained.

6. Check Sheet, Pages 2-3: All changes made to any original sheets will be indicated with an asterisk to the right of the page number on the Check Sheet. Therefore, place "*" - indicates

pages included with this filing” above the footer on the bottom of the Check Sheet pages. Also, Change Rate Schedule to Section 13 as directed below. And finally, make appropriate changes pursuant to this order.

7. Index, Page 6-13: Remove these pages.
8. Section 1, Page 2: Remove “information” in the second paragraph. Also, remove the last paragraph as this Company is not offering service to residential customers.
9. Section 2, Pages 1-7: Only include definitions of terms used in the tariff. Either remove the following or provide a reference to Commission staff as to where in this tariff these terms are used: Apartments, Automatic Number Identification (ANI), College, Flat Rate Service, Kilobit, Referral Period.
10. Section 3.1.2 a-c, Page 5: Liability: Remove or revise any portion of this section that does not fit within the scope of 52 Pa. Code §69.87 and the Commission Order under Docket No. M-00981209. See <http://www.pabulletin.com/secure/data/vol29/29-17/659.html>
11. Section 3.1.2 a, Page 5: Remove the reference to attorneys’ fees and court costs. The Commission does not empower parties to collect their legal fees from other parties. This matter must be dealt with in court proceedings or negotiations between the parties.
12. Section 3.3.2, Page 9: Specify the deposit interest rate that the company is using. Delete the last paragraph in this section as it refers to residential services which are not offered.
13. Section 3.3.3, Page 10: Expand this section to clearly specify whether, if bills are paid by mail, the date of the postmark will be considered the date of payment pursuant 52 Pa. Code §53.84.
14. Section 3.3.6, Page 11: The correct BCS number is 1-800-692-7380.
15. Section 3.5, Page 14: Change the “Per business access line charge” to \$0.08 per month and state that this monthly charge is effective as of July 1, 2009.
16. Section 3.6, Page 15: Remove the last paragraph in this section as it refers to residential service.
17. Section 3.6.1, Pages 15-19: Reword this section so that it doesn’t describe Residential Service.
18. Section 3.7, Page 19: Change the first sentence to read; “In compliance with 52 Pa. Code § 63.24.”
19. Section 3.8.6, Page 23: Add appropriate Toll Presubscription charges to this section i.e. move appropriate rates from the rate section to this section.
20. Section 4.1.5, Page 2: Delete this subsection as the Commission does regulate inside wire.

21. Section 6.1.2, Page 3: Change reference to Rate Schedule to Section 13. The Rate Schedule will be renamed Section 13 as directed below.
22. Section 7.1.2, Page 3: Revise this section so that it is compliant with 52 Pa. Code § 53.60. Add language that states “promotional service offerings must not extend longer than 6 months in any rolling 12-month period.” Also, please note, Company must file a tariff supplement for any promotional offerings.
23. Section 7.1.2, Page 4: Delete subsections f. and g. as they are duplicating prior subsections.
24. Section 7.2.1, Page 4: Delete the last [duplicate] sentence.
25. Section 7.6, Page 19: Change reference to Rate Schedule to Section 13. The Rate Schedule will be renamed Section 13 as directed below.
26. Section 12, Page 2: Add “* Not regulated under this tariff” to the bottom of this page.
27. Section 12.2.2, Page 4: Change reference to Rate Schedule to Section 13.
28. Rate Schedule, Pages 1-21: Change “Rate Schedule” to “Section 13” and make appropriate changes to the Table of Contents.

Tariff deficiencies noted – CLEC Switched Access Tariff No. 2

1. Correct the Title to read:

NTELOS of West Virginia Inc. d/b/a NTELOS
COMPETITIVE LOCAL EXCHANGE CARRIER
SWITCHED ACCESS TARIFF
 Regulations and Schedule of Charges

2. Add the following text to the Title Page after the above:

- The Company’s tariff is in concurrence with all applicable State and Federal Laws (including, but not limited to, 52 Pa. Code, 66 Pa. C.S. and the Telecommunications Act of 1934, as amended), and with the Commission’s applicable Rules and Regulations and Orders. Any provisions contained in this Tariff that are inconsistent with the foregoing mentioned will be deemed inoperative and superseded.
- The Company will mirror the exchange area boundaries as stated in the tariffs of Verizon Pennsylvania Inc. Telephone Pa. P.U.C. Nos. 180A; Verizon North Inc. Telephone Pa P.U.C. Nos. 1, 3, 5, and 6; and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink Pa. P.U.C. No. 27.
- Remove “All material contained herein is new.”

3. All Pages: Enter issued and effective dates as per ordering paragraph.

4. All Pages: Add “d/b/a NTELOS” to the end of the Company’s name in the top right corner of the header. Also, add “Switched Access Service” to the bottom portion of the header and then center the text appropriately.
5. All Pages: Add “d/b/a NTELOS” to the end of the Company’s name in the footer.
6. Missing: The Company did not provide page explaining the Tariff Format. This page should be inserted after the Table of Contents. The Table of Contents should then reference this page. Use sample tariff Format provided in Appendix B.
7. Check Sheet, Pages 2-3: All changes made to any original sheets will be indicated with an asterisk to the right of the page number on the Check Sheet. Therefore, add; “* - indicates pages included with this filing.” Place above the footer on the bottom of the Check Sheet pages. Also, make appropriate changes pursuant to this tariff.
8. Table of Contents, Pages 4-9: Make appropriate changes pursuant to this tariff.
9. Page 11: Remove this page.
10. Section 1, Pages 1-5: Only include definitions of terms used in the tariff. Either remove the following or provide a reference to Commission staff as to where in this tariff these terms are used: Alternate Access, Joint User, Local Access, Off-Hook, On-Hook, Premises, Shared Facilities, Signaling Point of Interface, Signaling Transfer Point Access, Special Access Service.
11. Section 2.1.4, Pages 2-5: Remove or revise any portion of this section that does not fit within the scope of 52 Pa. Code §69.87 and the Commission Order under Docket No. M-00981209. See <http://www.pabulletin.com/secure/data/vol29/29-17/659.html>.
12. Section 2.3.2, Page 11: Remove or revise any portion of this section that does not fit within the scope of 52 Pa. Code §69.87 and the Commission Order under Docket No. M-00981209. See <http://www.pabulletin.com/secure/data/vol29/29-17/659.html>. Also, remove reference to attorney’s fees. The Commission does not empower parties to collect their legal fees from other parties. This matter must be dealt with in court proceedings or negotiations between the parties.
13. Section 2.5.2 (F), Page 16: Add telephone number for the Bureau of Consumer Services to this section. The telephone number is 1-800-692-7380.
14. Section 2.5.4 (J), Page 23: Remove reference to attorney’s fees. The Commission does not empower parties to collect their legal fees from other parties. This matter must be dealt with in court proceedings or negotiations between the parties.
15. Section 2.5.7, Page 24: In keeping with the submitted CLEC tariff, add the returned check of \$25.00 to this section.
16. Section 2.6.2, Page 25: Delete subparagraph (F) which duplicates the text of the preceding subparagraph.

17. Section 5, Pages 1-3: Delete this section as Subscriber Line Charges are included in FCC tariffs.

Tariff deficiencies noted – CAP Tariff No. 4

1. Correct the Title to read:

NTELOS of West Virginia Inc. d/b/a NTELOS
COMPETITIVE ACCESS PROVIDER CARRIER
Regulations and Schedule of Charges
2. Add the following text to the Title Page after the above:
 - The Company’s tariff is in concurrence with all applicable State and Federal Laws (including, but not limited to, 52 Pa. Code, 66 Pa. C.S. and the Telecommunications Act of 1934, as amended), and with the Commission’s applicable Rules and Regulations and Orders. Any provisions contained in this Tariff that are inconsistent with the foregoing mentioned will be deemed inoperative and superseded.
 - Remove “All material contained herein is new.”
3. All Pages: Enter issued and effective dates as per ordering paragraph.
4. All Pages: Add “d/b/a NTELOS” to the end of the Company’s name in the header.
5. All Pages: Rename tariff to PA P.U.C No. 3.
6. All Pages: Add “d/b/a NTELOS” to the end of the Company’s name in the footer.
7. Missing: The Company did not provide page explaining the Tariff Format. This page should be inserted after the Table of Contents. The Table of Contents should then reference this page. Use sample tariff Format provided in Appendix B.
8. Section 1, Pages 1-3: Only include definitions of terms used in the tariff. Either remove the following or provide a reference to Commission staff as to where in this tariff these terms are used: “Intrastate Service,” and “Off-Net.”
9. Section 2.24, Page 2: Delete this section as the Commission does not empower parties to collect their legal fees from other parties. This matter must be dealt with in court proceedings or negotiations between the parties.
10. Section 2.3, Pages 5-8: Liability: Remove or revise any portion of this section that does not fit within the scope of 52 Pa. Code §69.87 and the Commission Order under Docket No. M-00981209. See <http://www.pabulletin.com/secure/data/vol29/29-17/659.html>.
11. Section 2.3.8, Page 6: Remove or reword this section as 52 Pa. Code §63.24(b) (3) clearly states that, when service is interrupted for at least 24 hours due to such factors as storms, fires, floods or other conditions beyond the control of the Company, an allowance of 1/30 of

the tariff monthly rate shall apply for each full 24 hour period during which the interruption continues after notice by the customer to the Company.

12. Section 2.11.4, Page 17: Specify the deposit interest rate that the company is using.
13. Section 2.11.6 (B), Page 18: Change the phone number for the Bureau of Consumer services to 1-800-692-7380.
14. Section 4.3, Page 3: Add language that states ICB rates are to be filed with Commission upon request.


[RI.gov Links](#)
• [RI Agencies](#) • [Privacy Policy](#)
Search:

State of Rhode Island
Public Utilities Commission and Division of Public Utilities and Carriers

[Electric](#) [Water](#) [Wastewater](#) [Natural Gas](#) [Telecom](#) [Cable TV](#) [Motor Carriers](#) [Ferry Services](#)



















[General Info](#)
[Consumer Info](#)
[Utility Info](#)
[Events/Actions](#)
[Rules/Regulations](#)

HOME


[RI.gov Links](#)
• [RI Agencies](#) • [Privacy Policy](#)
Search:

State of Rhode Island
Public Utilities Commission and Division of Public Utilities and Carriers

[Electric](#) [Water](#) [Wastewater](#) [Natural Gas](#) [Telecom](#) [Cable TV](#) [Motor Carriers](#) [Ferry Services](#)

[General Info](#)
[Consumer Info](#)
[Utility Info](#)
[-Public Hearings](#)
[Rules/Regulations](#)

HOME

Application Package Instructions

Filing Package Requirements

Submit Original plus 3 copies of Complete Package AND Check (see 4a or 4b below)

1. A telecommunication services supplier must file a Statement of Business Operations ("SBO"), including the following information in a question – answer format.

- a. Corporate name, complete address, telephone/fax numbers, e-mail address
- b. Local Company name, complete address, telephone/fax numbers, e-mail address
- c. Business locations.
- d. Service agent, complete address, telephone/fax numbers, e-mail address
- e. Attorney of record, complete address, telephone/fax numbers, e-mail address
- f. Corporate officers and major stockholders or partners holding a ten percent or greater equity interest.
- g. General description of operations.
- h. Description, in detail, of the customer service organization to be employed in serving carriers and end users.
- i. Customer service contact, complete address, telephone/fax numbers, e-mail address
- j. Regulatory contact person, complete address, telephone/fax numbers, e-mail address
- k. Company web site URL, if available.

2. Provide evidence, in exhibit form, of authorization from the Rhode Island Secretary of State, 100 North Main Street, Providence, RI 02903 (401-222-2357), to do business in Rhode Island. Any filing not including this requirement will be put on hold until the documentation is received or the filing package will be return for deficiencies. And supply the "d/b/a name form" from the Secretary of State if using a fictitious name within the state. (see requirements below for this procedure)

3. All telecommunication service supplier applicants must file latest company's stated financial position.

4.a. Only the CLEC (Class I) may file tariffs at a later date; 30 days before commencing operations in the state. Filing must include a **check in the amount of \$300.00**, made payable to "State of Rhode Island".

4.b. All non CLEC (Class II, III, IV, V, VI) telecommunication service suppliers filing must include tariffs leaving the effective date BLANK. Filing must also include a **check in the amount of \$250.00**, made payable to "State of Rhode Island".

Package Review

The Division of Public Utilities and Carriers will review the Statement of Business Organization ("SBO") and make a recommendation to the Public Utilities Commission as to whether the telecommunication service supplier should be authorized to provide service in Rhode Island. NO service may be rendered unless and until the Commission has approved the company's tariffs, usually processed within 30 days from docketing date.

A telecommunication service supplier authorized to provide intrastate service shall file tariffs pursuant to Rhode Island General Laws, Section 39-3-11. However, the Commission will exercise its authority pursuant

DDM 000582

to Section 39-3-12 to modify certain of the tariff filing requirements. The Commission's rules of practice and procedure requires the filing of minimal supporting documentation and permits tariffs to go into effect thirty days after notice in the absence of a suspension order.

Annual Requirements

The telecommunication service supplier with intrastate operating authority shall make annual filings with the Division of Public Utilities as follows:

- a. If there are any changes to the SBO, the SBO should be amended annually as of June 30 of each year or before if changes are made, but in no event not later than June 30th of each year.
- b. Thirty days following the close of a Competitive Access Provider only, CAP's (Class I) fiscal year, a filing shall be made disclosing the number of lines in service and the revenues derived therefrom.
- c. Once audited figures are available on the information filed pursuant to (b), the CAP shall supplemented their prior report, (if figures and amounts are different from original filing in b above.)
- d. BEFORE July 1st, and every year thereafter, a check for the annual fee in the highest class of services offered ie. Class 1, 2 ,3....., should be issued to the "State of Rhode Island " along with the Annual Reporting requirements listed above. (See REGULATIONS AND FEE SCHEDULES FOR TELECOMMUNICATIONS PROVIDERS - 4. ANNUAL FEES)

(special notation – An invoice will be sent May/June time period for the annual filing fee, with a printout of selected information about the telecommunication service supplier, this form should be updated and returned as soon as possible. The payment can be processed separately and forwarded to the Commission.)

Mail to, Rhode Island Public Utilities Commission, Attn: Accounting Section, 89 Jefferson Blvd., Warwick, RI 02888.

*Failure to remit the annual fee by August 1st, will result in suspension of operating authority. After September, any provider whose operating authority has been revoked **may reapply** by filing an original application with appropriate fees.*

Special Notice - Resellers can Resell "Local Exchange Services"

At an open meeting held July 29, 1997, the Commission reviewed a Request for Clarification from the Division of Public Utilities. The Division asked whether registered carriers that are Competitive Switchless Resellers ("CSR") may resell local exchange and related optional services without being a Competitive Local Exchange Carrier ("CLEC").

The Commission answered in the affirmative, as quoted below:

"The Commission believes that there may never be a bright line between CSR's and CLECs (other than the existence of Rhode Island facilities), but that in any case the evolution of the competitive marketplace will assist both the Division and the Commission in determining whether and when further distinctions are necessary."

Rhode Island Summary of Assessment – Surcharges – Taxes and Rules

There are a number of specific Rhode Island taxes/surcharges that every telecommunication company should be aware of and an "assessment charge" for the Rhode Island Public Utilities Commission budget.

I. Administrative expenses – Assessment against utilities.

Pursuant to the Rhode Island General Law Chapter 1 of title 39, the General Assembly mandated an assessment on gross revenues of utilities operating within the state of Rhode Island.

"The administrator (of the Division of Public Utilities and Carriers) shall thereupon apportion and assess one hundred percent (100%) of such expenses among the several public utility companies and common carriers located in this state in the proportion that the gross intrastate utility operating revenues of each public utility company and common carrier shall bear to the total gross intrastate utility operating revenues for the last preceding fiscal year of all public utility companies and common carriers; provided, however, that any public utility or common carrier, whose gross intrastate revenues in any fiscal year as reported to the administrator do not exceed one hundred thousand dollars (**\$100,000**), shall not be subject to the assessment."

Pursuant to the Rhode Island General Law 39-1-22 False Returns. – A company subject to the supervision of the commission or division which furnishes it with a sworn or affirmed report, return, or statement, which the company knows or should know contains false figures or information regarding any material matter lawfully required of it, and any company which fails within a reasonable time to obey a final order of the commission or division, shall be fined not more than twenty thousand dollars (\$20,000).

It is required that all telecommunication carriers, with intrastate revenues in **excess of \$100,000**, be required to file annual intrastate revenues (Calendar basis - January through December) with the Rhode Island Division of Public Utilities and Carriers, in care of Mr. Charles Brown at 89 Jefferson Blvd., Warwick, Rhode Island 02888. Phone (401) 941-4500 and FAX (401) 941-9248. An invoice for the telecommunication carriers assessment will be forwarded at the appropriate time by the Division. ***Files of the annual Rhode Island revenues and access lines will be kept confidential.***

II. Dual party telephone relay service for deaf, hearing impaired and speech impaired persons. Generally known as the "TTY/TDD Relay Surcharge".

Pursuant to the Rhode Island General Law 39-1-42, the Public Utilities Commission was mandated to (a) establish, administer, and promote a statewide dual party telephone relay service and to (b) establish, by rule or regulation, an appropriate funding mechanism to recover the costs of providing this service to the general body of rate payers.

On May 1, 1998 in R.I.P.U.C. Docket No. 2046, the Commission ordered the assessment of a monthly relay surcharge to be **9 cents (\$0.09) [1]** for each telephone access line in the state of Rhode Island. The costs associated with the relay service are to be recovered by each telecommunication carrier providing local telephone service. The monthly surcharge should be established as a separate line item on the monthly statement of telephone customers.

Both Text Telephone ("TT") and Voice users may place calls through the relay service by calling the toll-free access number 800-RI-55555 (800-745-5555).

With the advent of competition in the telecommunication market in Rhode Island, it is required that all carriers providing telephone service be required to bill its customers the relay surcharge and remit the TDD Relay surcharge amount (payable) to the Rhode Island Division of Public Utilities and Carriers, in care of Mr. Charles Brown at 89 Jefferson Blvd., Warwick, R.I. 02888 Tel. No. (401) 941-4500 ext. 141 and FAX (401) 941-9248. Please contact Mr. Brown before your first filing.

III. Gross earnings of certain corporations and public service companies. Generally known as "Gross Earnings Tax"

Pursuant to the Rhode Island General Law Chapter 13 of title 44, Public Service Corporation Tax, the General Assembly mandated a Gross Earnings tax on telecommunication services within the state of Rhode Island.

(4) "In the case of every telecommunications corporation providing telecommunications service, **five percent (5%)** effective July 1, 1997."

(6) "Due date of annual return – Every corporation shall file a return with the (tax) administrator on or before March 1 of each year."

(10) "In the case of every corporation carrying on business both within and without this state, its entire gross earnings from its operation for the preceding calendar year, or for the portion of the year that the corporation has carried on business within this state shall be apportioned to this state."

Remit the Gross Earnings Tax amount (payable) to the "State of Rhode Island", and mail to: RI Division of Taxation, One Capitol Hill, Providence, RI 02908. Tel. No. (401) 574-8970. Call for forms and for a copy of current regulations or go to www.tax.state.ri.us.

IV. Sales and Use Taxes

Pursuant to the Rhode Island General Law Chapter 18 of title 44, the General Assembly mandated a Sales and Use tax on telecommunication services within the state of Rhode Island at the rate of **seven percent (7%)**.

44-18-7(9) "The furnishing for consideration of telecommunications service which includes local exchange service, intrastate toll service, interstate and international toll service... Including the furnishing, rental, or leasing of all equipment or services pertaining or incidental thereto; provided, that the service is: rendered in its entirety within this state, originated in this state and terminated in another state or a foreign country and with respect to which the service is charged to a telephone number, customer, or account located in this state or to the account of any transmission instrument in this state, originated in another state or a foreign country and terminated in this state and is charged to a telephone number, customer, or account located in this state at which the service is terminated, or to the account of any transmission instrument in this state at which the service is terminated."

Remit the Sales and Use tax amount (payable) to the "State of Rhode Island", and mail to: RI Division of Taxation, One Capitol Hill, Providence, RI 02908. Tel. No. (401) 574-8970. Call for forms and for a copy of the current regulations or go to www.tax.state.ri.us.

Tariff Changes

Rhode Island General Laws requires thirty (30) days notice of change in rates. The time period for the 30 day notice commences from the date the filing is received and docketed by the Commission Clerk, as long as the filing conforms to the tariff filing package requirements. Tariff filing package for CSRs should contain an original and 7 copies of the cover letter stating docket number and original company name as certified, an outline of changes and tariffs, and a check in the amount of \$50.00 payable to "State of Rhode Island". For CLECs, the package should include an original and 7 copies. All filings must be addressed to Ms. Luly Massaro, Commission Clerk, Rhode Island Public Utilities Commission, 89 Jefferson Blvd., Warwick, RI 02888. Phone 401-941-4500 ext 107.

Please note that when RI revenues are in excess of \$100,000. and assessment has been made, the \$50 tariff filing fee will be waived.

Mergers and Asset Purchase / Lease Agreements

Mergers and asset purchase / lease agreements between telecommunications companies doing business in Rhode Island must be approved by the Division of Public Utilities only. **IN CASES WHERE BOTH OF THE COMPANIES ARE REGISTERED TO DO BUSINESS IN RHODE ISLAND, Division approval is not required in cases where the merger or asset purchase / lease agreement is between parent or affiliated companies, incorporated outside of Rhode Island OR where only ONE registered Rhode Island telecommunications provider is involved** (see R.I.G.L. 39-3-24, et seq). Although approval is not required, telecommunications companies are required to notify both the Commission and Division of all merger and asset purchase / lease agreements. Any questions on this section can be directed to Mr. John Spirito Esq. at 401-941-4500 ext. 152. Companies seeking approval pursuant to RIGL 39-3-24 must file with Ms. Luly Massaro, Clerk, Rhode Island Division of Public Utilities, 89 Jefferson Blvd., Warwick, RI 02888. 401-941-4500 ext. 107.

Stocks, Bonds and Notes Issuance's

Only telecommunications companies that are incorporated in the state of Rhode Island are required to seek and receive Division approval to issue stocks, bonds, notes and other evidences of indebtedness (see R.I.G.L. 39-3-15 et seq.) Although approval is not required for foreign utilities doing business in Rhode Island, these companies are required to notify both the Commission and Division of all security issues involving their companies. Any questions on this section can be directed to Mr. John Spirito Esq. At 401-941-4500 ext 152

Trade Name(s) and d/b/a Name(s)

Telecommunications companies must register the trade name or d/b/a name with the Secretary of State, Corporations Division, 100 North Main St., Providence, RI 02903 (request a form 401-222-2357). The company must file this trade name and d/b/a release form with the original application if they are requesting the trade name or d/b/a. In addition if the company wants to add or change a trade name or d/b/a after receiving certification at the PUC, they must submit the complete Secretary of State form. Companies seeking to implement name change must do so through the submission of a tariff filing see procedures below.

Filing Information on Trade Name(s) and d/b/a Name(s) Needed at the PUC

If the company wants to add or change a trade name or d/b/a after receiving certification follow instructions listed below.

1. Submit trade or d/b/a name authorization form that you received back from the Secretary of State along with 2 and 3 below. (The authorization form is required for processing)
2. Change each tariff page with the addition of the trade name or d/b/a.
3. A check in the amount of \$50.00 made out to "State of Rhode Island", unless fee has been waived because of revenue assessment
4. Send to attention the Commission Clerk, RIPUC, 89 Jefferson Blvd., Warwick, RI 02888
5. The filing will be acted upon by the Commission and should be effective 30 days upon docketing by the Commission Clerk, please allow 2 days processing time for docketing. You should put in the issue and effective dates on each page.

Upgrading from a lower class, ie Reseller to CLEC

Any telecommunication carrier classified as a CSR (Class II) that wants to upgrade to a CLEC (Class I) **must file a complete new filing package**. Upon acceptance of the CLEC status by the Commission, the CSR Class II certificate must be requested by the company to be recalled and cancelled, otherwise, the company will be responsible for the annual fee for both classes. Direct the request to the Commission Clerk at the RIPUC.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF PUBLIC UTILITIES AND CARRIERS

REGULATIONS AND FEE SCHEDULES FOR TELECOMMUNICATIONS PROVIDERS

DDM 000585

Date of Public Notice: September 21, 1995
 Date of Public Hearing: October 5, 1995
 Effective Date: December 26, 1995

1. INTRODUCTION

These regulations, enacted pursuant to 1995 P.L. Chapter 316, govern the fees payable by telecommunications providers who are not otherwise subject to the provisions of R.I.G.L. 1956 (1988 Reenactment), 39-1-26(a) or (b). These fees represent the reasonable costs incurred by the Division of Public Utilities and Carriers and the Public Utilities Commission in docketing, investigation, and decision-making.

2. DEFINITIONS

As used in these rules, except as otherwise required by the context:

- a. "Applicant" means, in proceedings involving filings for permission or authorization which the Commission may give under statutory or other authority delegated to it, the party on whose behalf the filings are made.
- b. "Clerk" means the Commission clerk, appointed by the Commission pursuant to R.I.G.L. 39-1-9.
- c. "Commission" means the Public Utilities Commission.
- d. "Division" means the Division of Public Utilities and Carriers described in R.I.G.L. 39-1-2(4) and 39-1-3.
- e. "Telecommunications provider" means any person, firm or corporation providing, *inter alia*, intrastate telecommunications services, which is not otherwise liable for payments to the Public Utilities Reserve Fund (currently .00025% of gross annual operating revenues attributable to intrastate operations in Rhode Island) or for rate case expense reimbursements. For the purpose of these regulations, telecommunications providers are subdivided into six classes:
 - (1) **Class I:** Competitive Access Providers ("CAP"). Entry is controlled by Docket No. 2129. These carriers are facilities-based, providing customers with some of the same services available through the local exchange carrier. (the Commission added the Competitive Local Exchange Carrier "CLEC" classification to this Class I in open meeting)
 - (2) **Class II:** Resellers doing business as Certified Switchless Resellers ("CSR"). Entry is controlled by Docket No. 2262, incorporating many of the requirements of Docket No. 2129. CSRs are non-facilities-based carriers which purchase access at a discount from facilities-based carriers and/or the local exchange carrier, and market or resell their services.
 - (3) **Class III:** Resellers doing business through the use of debit cards ("DCS"). DCS is a pre-paid calling-card service provided by a wholesale company that allows an in-state outbound call to be charged to a debit card, typically through the use of a "1+800" number and a personal identification number.
 - (4) **Class IV:** Operator Service Providers ("OSP") or Alternate Operator Services ("AOS"). These providers offer an alternative to operator services provided by the local exchange carriers and facilities-based interexchange carriers. OSPs furnish services to carriers who do not have their own operators, and to businesses such as hotels, hospitals, airports, and educational institutions. The services may include calling card, collect, and third-party calls.
 - (5) **Class V:** Private coin telephones. This class includes Customer-Owned, Coin-Operated Telephones ("COCOT") and Inmate Services. COCOTs generally secure alternative operator services for calling card, collect, and third-party calls, since the financial commissions are greater. Inmate Services provides outbound-only coin telephones for residents of the state and federal prisons.
 - (6) **Class VI:** Other service providers who are not covered by Classes I-V. (wholesaler of data services)

3. ORIGINAL APPLICATIONS

- a. Class I. In addition to the materials required to be submitted to the Clerk pursuant to Docket No. 2129, CAP (or CLEC) applicants shall tender \$300.00, in a check payable to the State of Rhode Island. No application shall be accepted for docketing in the absence of full payment and all required paperwork.
- b. Class II. In addition to the materials required to be submitted to the Clerk pursuant to Docket No. 2262, CSR applicants shall tender \$250.00, in a check payable to the State of Rhode Island. No application shall be accepted for docketing in the absence of full payment and all required paperwork. Certain CSRs were granted interim authority by the Commission, pending action by the General Assembly. Holders of interim authority need not refile their materials, but will obtain permanent authority by submitting a letter requesting the same, accompanied by \$250.00, in a check payable to the State of Rhode Island.

DDM 000586

c. Class III. In addition to a Statement of Business Operations and initial tariffs, DCS applicants shall tender \$250.00, in a check payable to the State of Rhode Island. No application shall be accepted for docketing in the absence of full payment and all required paperwork.

d. Class IV. Class IV applicants are required to file certain information with the Division, pursuant to the Rules and Regulations for Telephone Operator Service Providers in Rhode Island, issued April 8, 1991. In addition, OSPs shall tender \$250.00, in a check payable to the State of Rhode Island. No application shall be accepted for docketing in the absence of full payment and all required paperwork.

e. Class V. COCOTs with fifteen units or more who wish to offer service as Class V telecommunications providers, must submit a registration form, listing information required by Docket Nos. 1786, 1796, and 1899, and initial tariffs. Inmate Services providers must submit a copy of the contract with the State of Rhode Island or the United States of America. In addition to this paperwork, Class V telecommunications providers shall tender \$150.00, in a check payable to the State of Rhode Island.

f. Class VI. The Division will dictate entry requirements for these providers on a service-by-service basis. Class VI telecommunications providers shall tender a check payable to the State of Rhode Island, in an amount to be determined by the Division, not to exceed \$300.00.(now includes wholesaler data services)

4. ANNUAL FEES

a. Class I. In addition to the materials required to be submitted to the Clerk annually pursuant to Docket No. 2129, CAPs (or CLECs) shall tender \$250.00, in a check payable to the State of Rhode Island, not later than July 1 following the date on which authority was granted. Failure to remit the annual fee by August 1 shall result in suspension of authority. Such suspension shall automatically become revocation if the annual fee remains unpaid by September 1; Class I telecommunications providers whose authority has been revoked may reapply for authority by filing an original application with the appropriate fees, as described in Rule 3a.

b. Class II. In addition to the materials required to be submitted to the Clerk annually pursuant to Docket No. 2262, CSRs shall tender \$175.00, in a check payable to the State of Rhode Island, not later than July 1 following the date on which authority was granted. Failure to remit the annual fee by August 1 shall result in suspension of authority. Such suspension shall automatically become revocation if the annual fee remains unpaid by September 1; Class II telecommunications providers whose authority has been revoked may reapply for authority by filing an original application with the appropriate fees, as described in Rule 3b.

c. Class III. DCS providers shall tender \$175.00, in a check payable to the State of Rhode Island, not later than July 1 following the date on which authority was granted. Failure to remit the annual fee by August 1 shall result in suspension of authority. Such suspension shall automatically become revocation if the annual fee remains unpaid by September 1; Class III telecommunications providers whose authority has been revoked may reapply for authority by filing an original application with the appropriate fees, as described in Rule 3c.

d. Class IV. AOS or OSP providers shall tender \$175.00, in a check payable to the State of Rhode Island, not later than July 1 following the date on which authority was granted. Failure to remit the annual fee by August 1 shall be cause for notice of a Show Cause hearing, publication of the notice on the National Association of Regulatory Utility Commissioners' Electronic Bulletin Board, and potential revocation if the annual fee remains unpaid by September 1; Class IV telecommunications providers whose authority has been revoked may reapply for authority by filing an original application with the appropriate fees, as described in Rule 3d.

e. Class V. COCOTs and Inmate Services providers with fifteen or more units shall tender \$25.00 or \$0.10 per telephone, whichever is greater, in a check payable to the State of Rhode Island, not later than July 1 following the date on which operations began. Failure to remit the annual fee by August 1 shall be cause for notice of a Show Cause hearing, and publication of the notice on the National Association of Regulatory Utility Commissioners' Electronic Bulletin Board. Class V telecommunications providers whose annual fees have not been paid by September 1 must reapply for authority by filing an original registration application with the appropriate fees, as described in Rule 3e.

f. Class VI. Class VI telecommunications providers shall tender a check payable to the State of Rhode Island, in an amount to be determined by the Division, not to exceed \$250.00.(now includes wholesale data services)

5. ADDITIONAL FILING FEES

a. Class I. CAPs (or CLEC) shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings required by Rule 4a. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

b. Class II. CSRs shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings required by Rule 4b. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

c. Class III. DCS providers shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings required by Rule 4c. No filing shall be accepted

for docketing unless the account is in full satisfactory status, and full payment is made.

d. Class IV. AOS or OSP providers shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings required by Rule 4d. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

e. Class V. COCOTs and Inmate Service providers shall tender \$25.00, in a check payable to the State of Rhode Island, with each tariff revision, other than the annual filing required by Rule 4e. No payment shall be required with non-tariff filings. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

f. Class VI. Class VI telecommunications providers shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings which may be required by Rule 4f. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.(now includes wholesale data services)

6. MISCELLANEOUS PROVISIONS

a. Multi-class Providers. A telecommunications provider who has authority under more than one class must submit the paperwork for each class, and the fees associated with the highest class.

b. Publication of Arrearages. An AOS, OSP, COCOT, or Inmate Services provider which fails to submit the annual fee in a timely manner will be summoned for a Show Cause hearing. Notice of this hearing will be published on the National Association of Regulatory Utility Commissioners' Electronic Bulletin Board so that regulators in other states can be alerted to the provider's failure to comply with regulations. The provider shall be classified "**unsatisfactory**" for all inquiries.

c. Limitation on Authority within a Class. The Clerk will not accept any original application for filing, if the telecommunications provider seeking authority currently holds authority in the same class (e.g. no CAP (or CLEC) can file an application to provide service as a CAP (or CLEC), although it may seek authority as a CSR).

The foregoing rules and regulations, after due notice and an opportunity for hearing, are hereby adopted and filed with the Secretary of State this 4th day of December, 1995, to become effective twenty (20) days after filing, in accordance with the provisions of R.I.G.L. 1956 (1988 Reenactment) nbsp42-35-2(a)(2), nbsp42-35-3, and R.I.G.L. 1956 (1984 Reenactment) nbsp39-1-26(c).

Fee Schedule for Telecommunications Providers

ALL FEES MUST ACCOMPANY PAPERWORK.

Class I

Original Application \$ 300
Annual Fee due by July 1 of each year \$250
Each Tariff Filing Change \$50

Class II

Original Application \$250
Annual Fee due by July 1 of each year \$175
Each Tariff Filing Change \$50

Class III

Original Application \$ 250
Annual Fee due by July 1 of each year \$175
Each Tariff Filing Change \$50

Class IV

Original Application \$250
Annual Fee due by July 1 of each year \$175
Each Tariff filing Change \$50

Class V

Original Application \$150
Annual Fee \$25 or 10 cents per phone whichever is greater, due by July 1 each year.
Each Tariff filing Change \$25

Class VI

Original Application not to exceed \$300
Annual Fee not to exceed \$250 due by July 1 of each year
Each Tariff filing Change \$50

DDM 000588

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION
IN RE: ENTRY REQUIREMENTS FOR
COMPETITIVE LOCAL EXCHANGE CARRIERS DOCKET NO. 2411
REPORT AND ORDER

On April 5, 1996, a letter from Brooks Fiber Communications of Rhode Island, Inc. ("Brooks") was received by the Public Utilities Commission ("Commission"). The letter formally notified the Commission of Brooks' intention to provide switched local service in Rhode Island, and requested whatever permission might still be necessary to do so. After open meeting discussion as to the proper forum [Footnote1](#) for considering entry requirements for competitive local exchange carriers ("CLECs"), the Commission created this generic docket on April 23, 1996 and invited prospective CLECs to submit comments on the scope of regulation.

By May 21, 1996, comments had been filed by Brooks, Teleport Communications Group, AT&T, Cox Communications, Inc., the Division of Public Utilities and Carriers, and NYNEX, the incumbent local exchange carrier.

Several parties noted that all the services offered by CLECs are competitive. Thus, their service offerings, service quality and prices are all responsive to the marketplace. It was suggested that the difference in market power between the CLECs and the incumbent, NYNEX, requires different regulatory treatment for the CLECs.

The distinction in the scope of regulation was explicitly recognized by Congress in the Telecommunications Act of 1996 ("the Act"). CLECs, for example, are saddled with fewer obligations than those imposed on incumbents and former Bell Operating Companies. [Footnote2](#)

The Commission is mindful that the Act prohibits states from erecting barriers to competitive entry. [Footnote3](#) However, Congress did not thereby intend to preempt our jurisdiction over all aspects of local service delivery. Indeed, the Act authorizes the Commission to impose requirements "necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers." [Footnote4](#)

Many of those requirements will be developed in the context of Docket No. 2252, and this docket does not purport to address them. Rather, our goal is to establish minimal provisions necessary to protect residential and small business customers, whose sophistication and ability to protect themselves may not be equal to those of the large users who have typically been customers of the Competitive Access Providers authorized by Docket No. 2129.

The Commission is of the opinion that the following entry requirements for CLECs, similar to those proposed by Brooks, will adequately protect Rhode Island consumers without erecting barriers to competitive entry:

1. The Commission shall grant authority to a CLEC upon its finding all of the following:
 1. That the applicant has satisfactorily provided a Statement of Business Operations in accordance with the Report and Order in Docket No. 2129, and a map of the geographical area or areas in which service will be offered; and **(outlined the required information earlier in this requirement file listing)**
 2. That the applicant meets the standard for financial resources, managerial qualifications, and technical competence established below; and
 3. That the CLEC has specified whether it intends to offer its service to all business and residence customers that request local exchange service; and
 4. That the CLEC has paid the appropriate application fees, pursuant to the Regulations and Fee Schedules for Telecommunications Providers. Until further notice, a CLEC shall be treated as a Class I telecommunications provider.
2. The Commission shall use the following standard for determining an applicant has sufficient financial resources:
 1. Upon request, applicants to become facilities-based service providers shall demonstrate they possess a minimum of \$100,000 cash or other financial instrument as described in 2(c), available for the first year expenses of Rhode Island operations;
 2. Upon request, applicants to become non-facilities based service providers shall demonstrate they possess a minimum of \$20,000 cash or other financial instrument as described in 2(c), available for the first year expenses of Rhode Island operations
 3. To satisfy the requirements of 2(a) and (b), if imposed, applicants may use appropriate financial

- instruments, subject to verification and review by the Commission, including but not limited to:
- cash or cash equivalent, including cashier's check or sight draft
 - certificate of deposit or other liquid deposit with a reputable bank or other institution
 - irrevocable letter of credit
 - line of credit
 - loan
 - guarantee.
4. The requirements of 2(a), (b), and (c) are not intended to prescribe the credit terms which apply between carriers.
3. The Commission shall determine an applicant possesses sufficient managerial qualifications on the basis of reviewing brief biographies of the applicant's key officers and/or managers:
1. For facilities-based applicants, the Commission shall review brief biographies of the applicant's key technical management personnel, if different from its key officers and/or managers, commensurate with the scope of the applicant's operations.
 2. For non-facilities based applicants, the Commission shall consider the technical competence of the underlying carrier(s) used in providing the applicant's service.
4. Before commencing operations, an applicant shall, if deemed necessary by the Commission, post and maintain a surety bond to cover refunds of all residential customer deposits, including advanced billing.
5. A CLEC must receive approval of its filed intrastate tariff **prior to commencing operations**. Such approval will be automatic if the Commission does not act within sixty days of the tariff filing.

The Commission is committed to competition in telecommunications. We believe that removing barriers and encouraging new entrants will result in lower costs to customers. These minimal entry requirements for CLECs will allow competitive local exchange service to commence. How it is to be managed raises issues, including the applicability of quality of service standards and universal service requirements, which we will address in Docket No. 2252. Any CLEC authorized to provide service in Rhode Island is bound by the decision in that docket.

Accordingly, it is

(15040) ORDERED:

The Commission adopts, for Brooks Fiber Communications of Rhode Island, Inc., and all other potential Competitive Local Exchange Carriers, the requirements detailed in this Report and Order.

EFFECTIVE AT PROVIDENCE, RHODE ISLAND ON JULY 9, 1996 PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED JULY 12, 1996.

PUBLIC UTILITIES COMMISSION

Footnote1

The Commission is currently considering a wide range of issues arising from competition in the telecommunications marketplace in Docket No. 2252.

Footnote2

Contrast Section 251(b), which defines obligations for all local exchange carriers, with Section 251(c), imposing additional obligations on incumbent local exchange carriers.

Footnote3

See Section 253(a).

Footnote4

See Section 253(b).

Residential Collection Procedures for Rhode Island Telecommunications Service Providers

PART 1 GENERAL

1.1 APPLICABILITY

These procedures apply only to residential services provided by Telecommunication Service Providers and are subject to the jurisdiction of the Rhode Island Public Utilities Commission and the Division of Public Utilities and Carriers.

1.2 DEFINITIONS

- (a) COMPANY: Any Telecommunication Service Provider.
- (b) CUSTOMER: Any Purchaser of or applicant for telephone service supplied by the Company for residential purposes.
- (c) DELINQUENT ACCOUNT: An account for residential telephone service which remains unpaid for at least 30 calendar days after receipt of the bill.
- (d) DISCONTINUANCE OF SERVICE: Temporary disconnection of telephone service initiated by the Company, and not requested by the customer.
- (e) DIVISION: The Division of Public Utilities and Carriers of the State of Rhode Island.
- (f) FINAL BILL: A final statement rendered when service has been removed or service is changed to a new customer who does not assume outstanding charges.
- (g) NEW SERVICE: Residential service provided to a person who, at the time of application for the service, is not a person in whose name residential service is currently being provided.
- (h) NOTICE OF DISCONTINUANCE: Written notice of the Company's intention to discontinue telephone service for nonpayment of a delinquent bill of more than \$50.00. This notice must be issued no less than 15 calendar days prior to the scheduled discontinuance date.
- (i) PAYMENT OF BILL: Receipt at the Company's business office or authorized payment agency of cash or money order or check which is subsequently honored.
- (j) RECEIPT OF BILL OR NOTICE: The receipt date is presumed to be 3 calendar days after the mailing date; or if the bill or notice is delivered rather than mailed, the receipt date is the date of delivery.
- (k) REMOVAL: Permanent disconnection of telephone service initiated by the Company and not requested by the customer.
- (l) VERIFICATION CALL: A call to the customer, or to a responsible adult member of the immediate family, living at the premises where service is provided, to establish that the notice of discontinuance was received and is understood, and to attempt to make mutually satisfactory payment arrangements in order to avoid discontinuance of service.

1.3 CUSTOMER RIGHTS

The Company shall print in a conspicuous place in the introductory pages of all residential telephone directories furnished by the Company a description of all residential customer rights and responsibilities under these Procedures.

PART II DEPOSITS

2.1 The Company may request a deposit from a customer applying for new service only if the customer has an outstanding bill from previous telephone service billed by the Company and it is not in dispute. In addition, the Company will also require payment of the outstanding bill. The Company may refuse to provide new service until the deposit and the outstanding bill have been paid, or mutually satisfactory arrangements have been made for payment of the outstanding bill.

2.2 The Company may request a deposit from a customer when the customer's service has been discontinued for nonpayment of a delinquent bill, or if notices of discontinuance have been sent in three of the previous six months. The Company may refuse to restore the service until the deposit and the delinquent bill have been paid, or mutually satisfactory arrangements have been made for payment of the delinquent bill.

2.3 The amount of the deposit shall be sufficient to provide security to cover **two-twelfths** of the estimated charges for the ensuing twelve months. Estimated charges for services in determining deposits shall not include the estimate of charges of any interexchange carrier or any entity other than the Company. Interest at the rate of **twelve percent annually** shall be payable on all deposits. Interest shall be credited annually to the customer's account or paid with the return of the deposit, whichever occurs first.

2.4 Any deposit of less than \$75.00 may be paid in two installments, with the second installment due no later than 30 days after payment of the initial installment. Any deposit of \$75.00 or more may be paid in 3 approximately equal installments with the last installment due no later than 60 days after the initial installment. When the customer elects installment payments, the Company shall provide service after the first installment. Failure of the customer to make timely payment of subsequent installments shall be grounds for discontinuance of service, in accordance with the provisions of Parts IV and V.

The deposit plus accrued interest will be refunded promptly to the customer upon satisfactory payment of bills for a period of six consecutive months, or if service is terminated, whichever

- 2.5 occurs first. Payment shall be considered satisfactory if no more than two notices of discontinuance have been mailed in the preceding six-month period.
- 2.6 If any deposit becomes inadequate or excessive, based on the customer's average usage for the six preceding months, a request for an additional deposit or a refund of the amount in excess will be made.
- 2.7 When a deposit is required, the Company must inform the customer of the reason for the requirement, how the amount was determined, and of the customer's right to appeal the deposit requirement to the Company and to the Division, pursuant to Part VII of these procedures.

PART III PAYMENT REQUIREMENT

- 3.1 The Company may require a customer to make an advance payment equal to the total of the service charges and other applicable nonrecurring charges. At the request of a customer, arrangements may be made for installment billing of nonrecurring charges provided, however, that the installments do not exceed three months. Advance payment may be required when credit information is vague or unclear or there is a strong indication of unwillingness to pay on the part of the customer. This would appear, for example, in answers to questions dealing with name, source of income and employment. In this instance, the following credit information would be requested: name, address, employment, previous service, does the applicant own or rent, at what number can he/she be reached.
- 3.2 The Company shall allow each customer at least 30 calendar days from receipt of the bill for payment in full.
- 3.3 The Company will use advance toll notification to bring to the attention of the customer uncharacteristically high toll usage.
- (a) The Company will identify accounts accruing \$140.00 or more in toll usage to the regular billing date.
 - (b) A careful analysis will be made of each case to determine if there is sufficient reason to contact the customer about his ability to meet his payment.
 - (c) Where there is high risk involved, the customer will be contacted and queried as to whether there is any question regarding the toll usage and if not, he will be asked about his ability to meet his payments.
 - (d) If mutually satisfactory arrangements are not made, the Company will notify the customer that toll service will be interrupted in five calendar days from the receipt of notice and will inform the customer about his right to appeal to the Division.
- 3.4 In determining whether to impose the advance payment requirements under Paragraph 3.1 or the advance toll notification requirements under Paragraph 3.3, or the deposit requirements under Paragraphs 2.1 or 2.2, the Company shall not discriminate against any customer on the basis of race, color, religion, national origin, sex, marital status, occupation, or age (provided the customer has the capacity to contract), or because all or part of the customer's income derives from any public assistance program.
- 3.5 Customers with outstanding final bills who are unable to pay the entire amount prior to installation of new service will be offered the Plans detailed in 3.5.1 and 3.5.2. Initially, the customer may choose either plan. However, if the customer fails to comply with the terms of Plan 1, the Company will provide written notice to the customer stating that the customer must comply with the terms of Plan 1 within 5 calendar days of receipt of the notice, or the customer will be enrolled in Plan 2. If after such notice the customer does not comply with the terms of Plan 1, the customer will be enrolled in Plan 2.
- Deposits prior to installation of service will not be required under either plan and installation charges will be billed in four (4) equal monthly installments.
- 3.5.1 **Plan 1**
The customer agrees to pay the final bill in six (6) equal monthly installments and also agrees to pay all current charges when due. The first of the six installment payments shall be paid upon enrollment in Plan 1. Installment payments will be applied to delinquent Company charges first. In addition, the Company will remove all auxiliary exchange services from the customer's account. Thereafter, the customer will be limited to basic exchange service for the duration of the Plan. In addition, the customer may obtain Non-Published service. Upon full payment of the final bill, the customer may elect to subscribe to auxiliary exchange services at tariff rates and charges.
- 3.5.2 **Plan 2**
The customer agrees to pay the final bill in twelve (12) equal monthly installments and also agrees to pay all current charges when due. The first of the twelve installment payments shall be paid upon enrollment in Plan 2. Installment payments will be applied to delinquent Company charges first. Upon enrollment in Plan 2 the Company will install Curb-a-Charge at no cost to the customer. In addition, the Company will remove all auxiliary exchange services from the customer's account and, if applicable, cancel the Company's Calling Card and notify

the customer's Primary Interexchange Carrier. Thereafter, the customer will be limited to basic exchange service for the duration of the Plan. In addition, the customer may also obtain Non-Published service. Upon full payment of the final bill, the Company will remove Curb-a-Charge service and notify the customer's Primary Interexchange Carrier. The customer may elect to subscribe to auxiliary exchange services at tariff rates and charges and reapply for the Company's Calling Card. A delinquent customer is eligible for one renegotiation of the terms of this payment Plan if he meets the following conditions:

- (1) The customer has not been enrolled in Plan 1 within the preceding 12 months.
- (2) At least 40% of the final bill has been paid.

Specific dates will be established for payment of the monthly installments. If payment is not received on the payment date, the customer will be subject to discontinuance of service after the Company completes the following procedures. The Residence Service Center will make **two telephone call** attempts to advise the customer prior to discontinuance. If the customer cannot be reached by telephone, the Company will send written notice to the customer. The written notice shall state the reasons for the proposed discontinuance. The customer's service may be discontinued three days after the second telephone call attempt is completed or the written notice is received, whichever is applicable. The customer's service will not be discontinued if the Company's charges have been paid in full.

PART IV NOTICE OF DISCONTINUANCE

4.1 Notice of Discontinuance shall not be issued until an account has become delinquent and must be sent by first class mail or be hand-delivered at least 15 calendar days prior to the proposed discontinuance.

4.2 Notice of discontinuance shall not be issued if the entire amount of a delinquent account is the subject of a pending dispute pursuant to Part VII of these Rules. The Company may, however, issue a notice of discontinuance for nonpayment of the portion of the delinquent account which is not the subject of a pending dispute pursuant to Parts V and VII of these Rules.

4.3 Notice of Discontinuance shall contain the following information:

- (a) the grounds upon which the proposed discontinuance is based;
- (b) the Company's intention to discontinue service unless the Company receives the amount due or makes mutually satisfactory payment arrangements with the customer;
- (c) the date on which service will be discontinued, unless the customer takes appropriate action;
- (d) the length of time (10 calendar days) that service will be discontinued prior to effecting removal;
- (e) the restoral charges due if payment in full or satisfactory payment arrangements are made during the discontinuance period;
- (f) the minimum service charge for the re-establishment of service that has been removed subsequent to discontinuance.
- (g) the address and telephone number of the business office responsible for any inquiries about the bill or notice, and a statement that intrastate toll calls to that office may be made collect;
- (h) the customer's right to delay discontinuance if unable to pay the bill and if a seriously ill person (certified so by a medical doctor) is on the premises, or if some other personal emergency requiring continued telephone service exists;
- (i) a statement that if any resident in the home is handicapped, or all residents in the home are elderly, discontinuance may be averted in accordance with the safeguards and protections contained in Part IX upon the conditions described therein;
- (j) a statement that disputes may be referred to the Division at a designated telephone number but that no appeal should be made to the Division without first attempting to resolve the matter with the Company.

4.4 The Company shall include the following legend printed on the face of all bills and notices of discontinuance in Spanish, Portuguese and any other language determined by the Company or the Division to be the primary language of a substantial number of customers of the Company.

THIS BILL (NOTICE) IS IMPORTANT

TRANSLATE IMMEDIATELY

PART V DISCONTINUANCE / REMOVAL PROCEDURES

5.1 Verification

The Company shall not discontinue a customer's service without first attempting to contact the customer or a responsible adult member of the household. The Company shall make its best effort to complete a verification call to remind the customer of the pending discontinuance and of the options available to avoid it. If a verification call cannot be completed on the first attempt, a second attempt will be made on a subsequent business day. When circumstances warrant, and the customer or an adult cannot be reached by telephone, a verification letter may be sent as an alternative.

- 5.2 Discontinuance and Removal of Service
- (a) Service may be discontinued for one or more of the following reasons:
- (1) nonpayment of a undisputed delinquent bill of \$50.00 or more;
 - (2) nonpayment of a deposit;
 - (3) failure to comply with the terms and conditions of a deferred payment arrangement as defined in Part III and Part VI;
 - (4) if the Division orders it;
 - (5) misrepresentation of identity for the purpose of obtaining telephone service;
 - (6) violation of Tariff Regulations on file with the Division.
- (b) Service may be removed for the following reasons:
- (1) the customer abandons the premises
 - (2) the Division orders it;
 - (3) violation of Tariff Regulations on file with the Division;
 - (4) as stated in 5.5 of these procedures.
- (c) Service may not be discontinued or removed:
- (1) without the notice provided for by these Procedures;
 - (2) if the outstanding undisputed delinquent account amount is less than \$50.00;
 - (3) if an emergency exists, as specified in Part VIII of these Rules;
 - (4) for a deposit or a bill or a portion of a bill under dispute, in accordance with Part VII of these Rules;
 - (5) if a customer has arranged, and is abiding by, a deferred payment agreement, in accordance with Part III or Part VI of these Rules;
 - (6) if no payment arrangements have been made and discontinuance of service does not occur within 10 calendar days following the proposed discontinuance date;
 - (7) if a customer fails to pay for concurrent service received at a separate residence or location, or the failure to pay for a different class of service at the same or different location;
 - (8) if a customer fails to pay for service provided in the name of another customer;
 - (9) if a customer in Plan 2 of a deferred payment plan has only non-Company charges outstanding and is current on Company charges;
 - (10) if the Division forbids it.
- 5.3 Time Restrictions Applicable to Discontinuance of Service
- (a) Service shall not be discontinued on a day, or a day immediately preceding a day, when the services of the Company are not available to the general public for the purpose of restoring discontinued service.
- (b) Service may be discontinued only between 8:00 a.m. and 3:00 p.m. on the discontinuance date; and barring any payment agreement that might subsequently be dishonored at a date beyond, discontinuance must be effected within 10 calendar days following the scheduled discontinuance date.
- 5.4 Restoral of Service
- (a) Service will be restored during business hours of the day on which payment is received or arrangements made, or not later than the first working day thereafter.
- (b) If an emergency exists, service will be restored the same day the Company is notified of such emergency.
- (c) The restoral charge will be billed in the billing period following the restoral.
- 5.5 Removal of Service
- The Company may remove service 10 calendar days after the date of discontinuance, if the bill has not been paid in full, or if a customer has not made and subsequently honored a deferred payment arrangement as defined in Part VI, and providing there is no requirement to restore service because of a serious illness or an emergency.

PART VI DEFERRED PAYMENT PLANS

- 6.1 If a customer cannot pay a delinquent account in full, the Company will attempt to negotiate a mutually satisfactory deferred payment plan.

The Company shall offer the following payment plans to the customer. Initially, the customer

6.2 may choose either plan. However, if the customer fails to comply with the terms of Plan 1, the Company will provide written notice to the customer stating that the customer must comply with the terms of Plan 1 within 5 calendar days of receipt of the notice, or the customer will be enrolled in Plan 2. If after such notice the customer does not comply with the terms of Plan 1, the customer will be enrolled in Plan 2.

6.2.1 **Plan 1**

The customer agrees to pay all delinquent charges in six (6) equal monthly installments and also agrees to pay all current charges when due. The first of six installment payments shall be paid upon enrollment in Plan 1. Installment payments will be applied to delinquent Company charges first. In addition, the Company will remove all auxiliary exchange services from the customer's account. Thereafter, the customer will be limited to basic exchange service for the duration of the Plan. Customers who have Non-Published service may keep that service. Upon full payment of the delinquent charges, the customer may elect to subscribe to auxiliary exchange services at tariff rates and charges.

6.2.2 **Plan 2**

The customer agrees to pay all delinquent charges in twelve (12) equal monthly installments and also agrees to pay all current charges when due. The first of the twelve installment payments shall be paid upon enrollment in Plan 2. Installment payments will be applied to delinquent Company charges first.

Upon enrollment in Plan 2, the Company will install Curb-a-Charge at no cost to the customer. In addition, the Company will remove all auxiliary exchange services from the customer's account and, if applicable, cancel the Company's Calling Card and notify the customer's Primary Interexchange Carrier. Thereafter, the customer will be limited to basic exchange service for the duration of the plan. Customers who have Non-Published service may keep that service. Upon full payment of the delinquent charges, the Company will remove Curb-a-Charge service and notify the customer's Primary Interexchange Carrier. The customer may elect to subscribe to auxiliary exchange services at tariff rates and charges and reapply for the Company's Calling Card.

The Company shall not discontinue Curb-a-Charge service if a customer in Plan 2 has only non-Company charges outstanding and is current on Company charges.

Specific dates will be established for payment of the monthly installments. If payment is not received on the payment date, the customer will be subject to discontinuance of service after the Company completes the following procedures. The Residence Service Center will make **two telephone call** attempts to advise the customer prior to discontinuance. If the customer cannot be reached by telephone, the Company will send written notice to the customer.

The written notice shall state the reasons for the proposed discontinuance. The customer's service may be discontinued three days after the second telephone call attempt is completed or the written notice is received, whichever is applicable. The customer's service will not be discontinued if the Company charges have been paid in full.

A delinquent customer is eligible for one renegotiation of the terms of this payment plan if he meets the following conditions:

- (1) the customer has not been enrolled in Plan 1 within the preceding 12 months,
- (2) at least 40% of the original delinquent bill has been paid.

6.3 If a mutually satisfactory agreement or a payment plan cannot be reached, the Company shall inform the customer of the right to appeal to the Division.

- (a) Such appeal must be made within two business days.
- (b) Service may not be discontinued pending the Division's review of appeal. If the customer indicates to the Company that he will appeal and notification of appeal has not been received from the Division within three business days thereafter, the Company has the right to discontinue service for any delinquent balance of \$50.00 or more.
- (c)

6.4 The Division shall rule within 5 business days on the appeal, notify the customer and the Company of the decision, and advise the customer of the right to further review in accordance with Section VII.

PART VII DISPUTES

- 7.1 If any matter relating to a bill or deposit is disputed by the customer, a thorough investigation shall be made by the Company. The results of the investigation shall be given to the customer and every reasonable effort will be made to resolve the complaint.
- 7.2 Informal Review By The Division of Public Utilities and Carriers
- In the event of a dispute between the Company and the customer which cannot be adjusted with mutual satisfaction after an initial consultation with an employee of the Consumer Section of the Division, the customer or the Company may request a review by the Public Utilities Administrator or his designee who shall investigate the complaint, afford each party to the dispute a reasonable opportunity to be heard, and communicate his findings to the parties. During the pendency of such review the Company shall not discontinue service to the customer due to the circumstances out of which the dispute arose. The customer or the Company may request a review of the disputed issue at any time and the request may be made in any reasonable manner including telephoning the Division of Public Utilities and Carriers.
- (a) Where a disputed issue involves an outstanding bill for previous telephone service or a delinquent account and the reviewing officer finds that the debt is owed or that the account is delinquent and the customer does not have and cannot obtain funds to pay the debt or delinquent account in full on demand, the reviewing officer shall mandate the terms and conditions of a deferred payment agreement consistent with the provisions of Part III or Part VI.
- (b) The informal review shall be completed promptly in all cases where the customer is without service.
- (c)
- 7.4 Decision of Reviewing Officer
- (a) A written notice of decision and order after informal review shall be sent to the parties and their counsel.
A notice of decision and order must contain the following information, as appropriate:
- A statement of the decision and order and a statement of the material facts underlying that decision and order.
 - The date of proposed termination, if known and applicable.
- (b)
- A statement of the right of any party to an evidentiary hearing before the Public Utilities Administrator or designee of the Public Utilities Administrator prior to termination, if applicable, or promptly if services have been terminated, should the reviewing officer's decision be disputed.
 - A statement which specifies the procedure for initiating an evidentiary hearing as set forth in Paragraph 7.5.
 - A statement of the right to retain, and to be represented by , counsel or another person of choice.
- (c) Service may not be discontinued during the informal review procedure or for at least ten (10) days after notice of decision is mailed.
- 7.5 Hearing
- Any party aggrieved by the decision of a reviewing officer after informal review shall have a right to an evidentiary hearing before a hearing officer designated by the Public Utilities Administrator to conduct hearings under this section. The hearing officer conducting the hearing shall not have been involved in the informal review or in any other proceeding relating to the current dispute. A request for an evidentiary hearing must be made within ten (10) days of receipt of a decision resulting from an informal review. Where a request is made within ten (10) days of receipt of a decision resulting from informal review, any termination permitted by the decision and order of the reviewing officer shall be suspended pending the decision and order of a hearing officer under this section. A request for a hearing may be made in any reasonable manner as by written notice or telephoned request directed to the Division or its personnel.
- Upon receipt of a request for an evidentiary hearing, the Public Utilities Administrator shall:
- Schedule and evidentiary hearing to be held within fourteen (14) days.
 - Notify all parties and their counsel of the hearing.
 - Issue a written decision within thirty (30) days from the completion of the evidentiary hearing process.
- 7.6 Hearing Procedure
- (a) As part of an evidentiary hearing, the parties shall have the following rights:
- (1) the right to appear in person and to retain, and be represented by counsel or another person of their choice,
 - (2) the right to present evidence, both oral and documentary,
 - (3) the right to present both oral and written argument,

- (4) the right to confront and cross-examine witnesses,
- (5) the right to have witnesses and documents subpoenaed pursuant to Rhode Island General Laws Section 39-1-13 and Section 39-1-15,
- (6) the right to examine a list of all witnesses who will testify for the adverse party and all documents, records, files, account data, and similar material which may be relevant to the issues to be raised at the hearing at least ten (10) days prior to a scheduled hearing, and
- (7) the right to a record of the hearing proceedings.

7.7 Notice of Decision

(a) A written notice of decision after evidentiary hearing shall be sent to the parties and their counsel. This notice shall be given by first class mail at least ten (10) days prior to any termination permitted after evidentiary hearing.

(b) The notice of decision shall :

- (1) set forth all findings of fact and law,
- (2) set forth the decision and order which shall include any termination date,
- (3) set forth the reasons for the decision and order,
- (4) set forth the right to judicial review by any party aggrieved by the decision and order.

7.8 Jurisdiction to Grant Exception

The Public Utilities Commission or Public Utilities Administrator retains the jurisdiction to grant an exception to the provisions of these regulations to any party for good cause shown.

7.9 Judicial Review

The decision and order after evidentiary hearing may be reviewed as set forth in Title 39 of the Rhode Island General Laws (as amended), and the State Administrative Procedures Act, Title 42, Chapter 35 of the Rhode Island General Laws (as amended).

PART VIII SERIOUS ILLNESS OR OTHER EMERGENCY

If the customer claims that there is a seriously ill person residing at the household where service is furnished, and is unable to pay because of a demonstrated hardship, the Company shall postpone discontinuance if continued access to the telephone is required because of serious illness. If service has already been discontinued, it will be restored the same day the Company is notified of such illness or other emergency. Such postponement or restoral will be predicated on the receipt of certification of the illness by a registered physician. The certificate shall state the name and address of the seriously ill person, the nature of the illness and the physician's office address and telephone number. **Certification of serious illness shall be sufficient if initially made by telephone.** In such event, the Company shall inform the certifying physician that a written certificate provided by the Company, setting forth the information required, must be forwarded to the Company within seven (7) days. If the Company does not receive written certification of the serious illness within seven (7) days, it shall contact the customer or the certifying physician prior to discontinuing service.

8.1 Certification will be valid for the duration of the illness or for thirty (30) calendar days, whichever is less, and is renewable only once with the approval of the Division.

8.2 The Company must honor a registered physician's certification of serious illness, but may seek Division review of the validity of the certification pursuant to Part VII of these regulations.

8.3 If at the expiration of the certification period, the customer has not paid the delinquent bill or the deposit, or has not agreed to a deferred payment arrangement, the Company may discontinue service. However, a written notice must be received five (5) calendar days before the discontinuance.

8.4 If the customer claims that any other emergency exists at the household where the service is rendered, the Company shall postpone discontinuance of service or shall restore discontinued service until the emergency situation is over. Such an emergency could be, for example, death in the household or a serious personal matter which would necessitate continuation of telephone service for a period of time agreed to mutually.

PART IX DISCONTINUANCE OF SERVICE TO THE ELDERLY AND HANDICAPPED

9.1 The Company shall devise procedures and methods reasonably designed to identify, before discontinuance of service for nonpayment, accounts affecting households in which all residents are 65 years of age or over, or any residents are handicapped.

A member of such a household may request the protection afforded by these rules by submitting to the Company on a form supplied by the Company, the account number, service address and the name, date of birth and social security number of each elderly member of

the household and in the case of the handicapped, the appropriate identification criteria.

9.2 On receipt, the Company will verify the information and identify the accounts. The Company will send notification to the household stating that records have been appropriately noted and that as long as the outlined conditions exist, the Company will not discontinue service for failure to pay past due bill without the approval of the Division.

9.3 Written approval from the Division of Public Utilities must be obtained by the Company before terminating service in a household where all residents are 65 years of age or older, or any residents are handicapped.

9.4 On receipt of an application to discontinue service, the Division, in the course of an investigation, will establish that:

- (a) The residents of the house hold have received proper notification;
- (b) the Company has in good faith attempted to secure payment by reasonable means other than discontinuance and has not refused to accept payment arrangements that are just and equitable.

In appropriate cases, the Division may hold hearings as a result of the investigation. The Division will notify the Company and the customer of the results of the investigation.

9.5 If a member of a household in which all residents are 65 years of age or older or any residents are handicapped so desires, the Company shall provide to a third person, designated by such customer, notices pertaining to discontinuance of service. In no event shall the third party so notified be liable for the account of the customer.

PART X DISCONTINUANCE OF SERVICE IN CASES INVOLVING A MARITAL DISPUTE

10.1 The Company shall not discontinue service to a customer for nonpayment where the Company is advised by the reason for nonpayment is the absence of the named customer or the major wage earning spouse from the residence because of a marital dispute, and where the spouse remaining in the residence:

- (a) establishes by independent evidence that the named customer or major wage earning spouse is no longer living at the residence. A copy of a petition for divorce or separation, or a letter attesting to a pending divorce or separation, or a letter attesting to a pending divorce or separation proceeding from legal counsel, or proof of eligibility for Aid to Families with Dependent Children, or other evidence satisfactory to the Company, shall constitute sufficient independent evidence under this subsection;
- (b) agrees to provide information concerning the location and employment of the named customer or the major wage earning spouse; and
- (c) agrees to establish a new account in his or her own name for prospective charges and to make deposit as security for payment of prospective charges, if a deposit would be otherwise permitted under these procedures.

[1] There have been some questions concerning the appropriate surcharge for PBX trunks. The monthly relay assessment for a PBX trunk should be one \$0.09 surcharge for each trunk. Each Centrex station line is billed one-eighth of the current rate of \$0.09. The current monthly relay surcharge is \$0.09 for each telephone access line in the state of Rhode Island.

[1] The amount of the surcharge shall not be subject to the tax imposed under chapter 18 of title 44 nor be included within the telephone common carrier's gross earnings for the purpose of computing the tax under chapter 13 of title 44.

RI Public Utilities Commission, 89 Jefferson Boulevard, Warwick, RI 02888
Voice: 401-941-4500 • Email: mary.kent@ripuc.org

State of Rhode Island Web Site



Last modified 10/20/2009 14:12:19

RI Public Utilities Commission, 89 Jefferson Boulevard, Warwick, RI 02888
Voice: 401-941-4500 • Email: mary.kent@ripuc.org

DDM 000598

State of Rhode Island Web Site



Last modified 10/20/2009 14:12:19

Regulations and Fee Schedules for Telecommunications Providers

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS

REGULATIONS AND FEE SCHEDULES FOR
TELECOMMUNICATIONS PROVIDERS

Date of Public Notice: September 21, 1995

Date of Public Hearing: October 5, 1995

Effective Date: December 26, 1995

1. INTRODUCTION

These regulations, enacted pursuant to 1995 P.L. Chapter 316, govern the fees payable by telecommunications providers who are not otherwise subject to the provisions of R.I.G.L. 1956 (1988 Reenactment), Sec.39-1-26(a) or (b). These fees represent the reasonable costs incurred by the Division of Public Utilities and Carriers and the Public Utilities Commission in docketing, investigation, and decision-making.

2. DEFINITIONS

As used in these rules, except as otherwise required by the context:

a. "Applicant" means, in proceedings involving filings for permission or authorization which the Commission may give under statutory or other authority delegated to it, the party on whose behalf the filings are made.

b. "Clerk" means the Commission clerk, appointed by the Commission pursuant to R.I.G.L. Sec.39-1-9.

c. "Commission" means the Public Utilities Commission.

d. "Division" means the Division of Public Utilities and Carriers described in R.I.G.L. Sec.39-1-2(4) and Sec.39-1-3.

e. "Telecommunications provider" means any person, firm or corporation providing, inter alia, intrastate telecommunications services, which is not otherwise liable for payments to the Public Utilities Reserve Fund (currently .00025% of gross annual operating revenues attributable to intrastate operations in Rhode Island) or for rate case expense reimbursements. For the purpose of these regulations, telecommunications providers are subdivided into six classes:

(1) Class I: Competitive Access Providers ("CAP"). Entry is controlled by Docket No. 2129. These carriers are facilities-based, providing customers with some of the same services available through the local exchange carrier.

(2) Class II: Resellers doing business as Certified Switchless Resellers ("CSR"). Entry is controlled by Docket No. 2262, incorporating many of the requirements of Docket No. 2129. CSRs are non-facilities-based carriers which purchase access at a discount from facilities-based carriers and/or the local exchange carrier, and market or resell their services.

(3) Class III: Resellers doing business through the use of debit cards ("DCS"). DCS is a pre-paid calling-card service provided by a wholesale company that allows an in-state outbound call to be charged to a debit card, typically through the use of a "1+800" number and a personal identification number.

(4) Class IV: Operator Service Providers ("OSP") or Alternate Operator Services ("AOS"). These providers offer an alternate to operator services provided by the local exchange carriers and facilities-based interexchange carriers. OSPs furnish services to carriers who do not have their own operators, and to businesses such as hotels, hospitals, airports, and educational institutions. The services may include calling card, collect, and third-party calls.

(5) Class V: Private coin telephones. This class includes Customer-Owned, Coin-Operated Telephones ("COCOT") and Inmate Services. COCOTs generally secure alternative operator services for calling card, collect, and third-party calls, since the financial commissions are greater. Inmate Services provides outbound-only coin telephones for residents of the state and federal prisons.

(6) Class VI: Other service providers who are not covered by Classes I-V.

3. ORIGINAL APPLICATIONS

a. Class I. In addition to the materials required to be submitted to the Clerk pursuant to Docket No. 2129, CAP applicants shall tender \$300.00, in a check payable to the State of Rhode Island. No application shall be accepted for docketing in the absence of full payment and all required paperwork.

b. Class II. In addition to the materials required to be submitted to the Clerk pursuant to Docket No. 2262, CSR applicants shall tender \$250.00, in a check payable to the State of Rhode Island. No application shall be accepted for docketing in the absence of full payment and all required paperwork. Certain CSRs were granted interim authority by the Commission, pending action by the General Assembly. Holders of interim authority need not refile their materials, but will obtain permanent authority by submitting a letter requesting the same, accompanied by \$250.00, in a check payable to the State of Rhode Island.

c. Class III. In addition to a Statement of Business Operations and initial tariffs, DCS applicants shall tender \$250.00, in a check payable to the State of Rhode Island. No application shall be accepted for docketing in the absence of full payment and all required paperwork.

d. Class IV. Class IV applicants are required to file certain information with the Division, pursuant to the Rules and Regulations for Telephone Operator Service Providers in Rhode Island, issued April 8, 1991. In addition, OSPs shall tender \$250.00, in a check payable to the State of Rhode Island. No application shall be accepted for docketing in the absence of full payment and all required paperwork.

e. Class V. COCOTs with fifteen units or more who wish to offer service as Class V telecommunications providers, must submit a registration form, listing information required by Docket Nos. 1786, 1796, and 1899, and initial tariffs. Inmate Services providers must submit a copy of the contract with the State of Rhode Island or the United States of America. In addition to this paperwork, Class V telecommunications providers shall tender \$150.00, in a check payable to the State of Rhode Island.

f. Class VI. The Division will dictate entry requirements for these providers on a service-by-service basis. Class VI telecommunications providers shall tender a check payable to the State of Rhode Island, in an amount to be determined by the Division, not to exceed \$300.00.

4. ANNUAL FEES

a. Class I. In addition to the materials required to be submitted to the Clerk annually pursuant to Docket No. 2129, CAPs shall tender \$250.00, in a check payable to the State of Rhode Island, not later than July 1 following the date on which authority was granted. Failure to remit the annual fee by August 1 shall result in suspension of authority. Such suspension shall automatically become revocation if the annual fee remains unpaid by September 1; Class I telecommunications providers whose authority has been revoked may reapply for authority by filing an original application with the appropriate fees, as described in Rule 3a.

b. Class II. In addition to the materials required to be submitted to the Clerk annually pursuant to Docket No. 2262, CSRs shall tender \$175.00, in a check payable to the State of Rhode Island, not later than July 1 following the date on which authority was granted. Failure to remit the annual fee by August 1 shall result in suspension of authority. Such suspension shall automatically become revocation if the annual fee remains unpaid by September 1; Class II telecommunications providers whose authority has been revoked may reapply for authority by filing an original application with the appropriate fees, as described in Rule 3b.

c. Class III. DCS providers shall tender \$175.00, in a check payable to the State of Rhode Island, not later than July 1 following the date on which authority was granted. Failure to remit the annual fee by August 1 shall result in suspension of authority. Such suspension shall automatically become revocation if the annual fee remains unpaid by September 1; Class III telecommunications providers whose authority has been revoked may reapply for authority by filing an original application with the appropriate fees, as described in Rule 3c.

d. Class IV. AOS or OSP providers shall tender \$175.00, in a check payable to the State of Rhode Island, not later than July 1 following the date on which authority was granted. Failure to remit the annual fee by August 1 shall be cause for notice of a Show Cause hearing, publication of the notice on the National Association of Regulatory Utility Commissioners' Electronic Bulletin Board, and potential revocation if the annual fee remains unpaid by September 1; Class IV telecommunications providers whose authority has been revoked may reapply for authority by filing an original application with the appropriate fees, as described in Rule 3d.

e. Class V. COCOTs and Inmate Services providers with fifteen or more units shall tender \$25.00 or \$0.10 per telephone, whichever is greater, in a check payable to the State of Rhode Island, not later than July 1 following the date on which operations began. Failure to remit the annual fee by August 1 shall be cause for notice of a Show Cause hearing and publication of the notice on the National Association of Regulatory Utility Commissioners' Electronic Bulletin Board. Class V telecommunications providers whose annual fees have not been paid by September 1 must reapply for authority by filing an original registration application with the appropriate fees, as described in Rule 3e.

f. Class VI. Class VI telecommunications providers shall tender a check payable to the State of Rhode Island, in an amount to be determined by the Division, not to exceed \$250.00.

5. ADDITIONAL FILING FEES

a. Class I. CAPs shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings required by Rule 4a. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

b. Class II. CSRs shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings required by Rule 4b. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

c. Class III. DCS providers shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings required by Rule 4c. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

d. Class IV. AOS or OSP providers shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings required by Rule 4d. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

e. Class V. COCOTs and Inmate Service providers shall tender \$25.00, in a check payable to the State of Rhode Island, with each tariff revision, other than the annual filing required by Rule 4e. No payment shall be required with non-tariff filings. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

f. Class VI. Class VI telecommunications providers shall tender \$50.00, in a check payable to the State of Rhode Island, with each tariff revision or non-tariff filing, other than the annual filings which may be required by Rule 4f. No filing shall be accepted for docketing unless the account is in full satisfactory status, and full payment is made.

6. MISCELLANEOUS PROVISIONS.

a. Multi-class Providers. A telecommunications provider who has authority under more than one class must submit the paperwork for each class, and the associated with the highest class.

b. Publication of Arrearages. An AOS, OSP, COCOT, or Inmate Services provider which fails to submit the annual fee in a timely manner will be summoned for a Show Cause hearing. Notice of this hearing will be published on the National Association of Regulatory Utility Commissioners' Electronic Bulletin Board so that the regulators in other states can be alerted to the provider's failure to comply with regulations. The provider shall be classified "unsatisfactory" for all inquiries.

c. Limitation on Authority within a Class. The Clerk will not accept any original application for filing, if the telecommunications provider seeking authority currently holds authority in the same class (e.g. no CAP can file an application to provide service as a CAP, although it may seek authority as a CSR).
The foregoing rules and regulations, after due notice and an opportunity for hearing, are hereby adopted and filed with the Secretary of State this 4th day of December, 1995, to become effective twenty (20) days after filing, in accordance with the provisions of RIGL 1956 (1988 Reenactment) Secs. 42-35-2(a)(2), 42-35-3, and RIGL 1956 (1984 Reenactment) Sec. 39-1- 26(c).

James J. Malachowski, Administrator

=====

Fee Schedule for Telecommunications Providers

Provider Class	Original Applications	Annual Fees[i]	Filing Fees[ii]
Class I	\$300.00	\$250.00	\$50.00
Class II	\$250.00	\$175.00	\$50.00
Class III	\$250.00	\$175.00	\$50.00
Class IV	\$250.00	\$175.00	\$50.00
Class V	\$150.00	\$25.00 or \$.10 per phone whichever is greater	\$25.00 tariff filing only
Class VI	not to exceed \$300.00	not to exceed \$250.00	\$50.00

[i Payment required by 7/1 each year otherwise authority shall be suspended by 8/1 if fee remains unpaid.]

[ii Each tariff revision or non-tariff filing, except Class V tariff changes only.]

=====

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS PUBLIC UTILITIES COMMISSION

Requirements for Registration Authority for Telecommunications Resellers

Filing Package Requirements

Submit Original plus 3 copies of Complete Package

1. A reseller of telecommunication services must file a Statement of Business Operations ("SBO"), including the following information.
 - a. Corporate name, complete address, telephone/fax numbers
 - b. Local Company name, complete address, telephone/fax numbers
 - c. Business locations
 - d. Service agent, complete address, telephone/fax numbers
 - e. Attorney of record, complete address, telephone/fax numbers
 - f. Corporate officers and major stockholders or partners holding a ten percent or Greater equity interest.
 - g. General description of operations
 - h. Description, in detail, of the customer service organization to be employed in Serving carriers and end users.
 - i. Customer service contact, complete address, telephone/fax numbers
 - j. Regulatory contact person, complete address, telephone/fax numbers

2. Provide evidence, in exhibit form, of authorization from the Rhode Island Secretary of State to do Business in Rhode Island.
3. All reseller applicants must file an independent auditor's report verifying the company's stated financial position.
4. Complete tariff filing package.
5. Fee regulations become effective on December 26, 1995. Please use the matrix supplied in the copy of "Regulations and Fee Schedules for Telecommunications Providers" included in this package. Select the highest class of tariffed services offered and remit check payable to "State of Rhode Island". A check must be remitted at time of filing.

Package Review

The Division of Public Utilities and Carriers will review the SBO and make a recommendation to the Public Utilities Commission as to whether the reseller should be authorized to provide service in Rhode Island. NO service may be rendered unless and until the Commission has approved the reseller's initial tariff filing.

A reseller authorized to provide intrastate service shall file tariffs pursuant to Rhode Island General Laws, Section 39-3-11. However, the Commission will exercise its authority pursuant to Section 39-3-12 to modify certain of the tariff filing requirements. The Commission's rules of practice and procedure requires the filing of minimal supporting documentation and permits tariffs to go into effect thirty days after notice in the absence of a suspension order. The lowest price for any service provided by a reseller to a customer must be specified in the reseller's tariff filing as the low end of the price range. Any discounted pricing contracts entered into by a reseller must be filed with the Division.

Annual Requirements

The reseller with intrastate operating authority shall make annual filings with the Telecommunication Section of the Division of Public Utilities as follows:

- a. The SBO should be amended annually as of June 30 of each year and should include a twelve-month statement of income and a then-current balance sheet.
- b. Thirty days following the close of a CAP's (Class I) fiscal year, a filing shall be made disclosing the number of lines in service and the revenues derived therefrom.

c. Once audited figures are available, the information filed pursuant to (a) shall be supplemented.

d. BEFORE July 1st, and every year thereafter, a check for the annual fee in the highest class of tariffed services, should be issued to the "State of Rhode Island" along with the Annual Reporting requirements listed above. Mail to attention Telecommunication Section, Rhode Island Public Utilities Commission, 89 Jefferson Boulevard, Warwick, RI 02888. Failure to remit the annual fee by August 1st, will result in suspension of operating authority. After September, any provider whose operating authority has been revoked may reapply by filing an original application with appropriate fees.

Tariff Changes

There is a 30 day notice statute in Rhode Island. The day the filing is docketed will start the 30 day period; therefore, please allow adequate time, from mailing the filing.



DMS Home | ETariff Home | PSC Web Site

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

Docket Management System

DMS Home

Docket Search

NDI Search

EFile

Matters

Orders

Order Index

Meetings and Hearings

Email Subscriptions

Mailing Labels

DMS RSS Feeds

:: DOCKET DETAIL

[Parties](#)
[Matters](#)
[Orders](#)
[Timeline](#)
[Hearings](#)
[Service List](#)
[Email List](#)
[Docket](#)

Docket 2010-137-C	
Opened On	Tuesday, April 6, 2010
Status	Open
Industry	Telecommunications
Summary	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation

Applicants

Big River Telephone Company, LLC	24 S Minnesota Cape Girardeau, MO 63702	Phone: 573-651-3373 Fax: 573-3605
----------------------------------	---	--------------------------------------

Representatives

<i>Representing Big River Telephone Company, LLC</i> Bonnie D. Shealy Robinson McFadden & Moore, PC Title: Counsel	Post Office Box 944 Columbia, SC 29202	Phone: 803-779-8900 Fax: 803-252-0724 bshealy@robinsonlaw.com
<i>Representing Office of Regulatory Staff</i> C. Lessie Hammonds Office of Regulatory Staff Title: Counsel	1401 Main Street, Suite 900 Columbia, SC 29201	Phone: 803-737-0800 Fax: 803-737-0895 lhammon@regstaff.sc.gov
<i>Representing South Carolina Telephone Coalition</i> M. John Bowen, Jr. McNair Law Firm, P.A. Title: Counsel	Post Office Box 11390 Columbia, SC 29211	Phone: 803-799-9800 Fax: 803-753-3219 jbowen@mcnair.net
<i>Representing South Carolina Telephone Coalition</i> Margaret M. Fox McNair Law Firm, P.A. Title: Counsel	Post Office Box 11390 Columbia, SC 29211	Phone: 803-799-9800 Fax: 803-376-2219 pfox@mcnair.net
<i>Representing South Carolina Telephone Coalition</i>	Post Office Box 11390	Phone: 803-799-9800

DDM 000608

Sue-Ann Gerald Shannon McNair Law Firm, P.A. Title: Counsel	Columbia, SC 29211	Fax: 803-753-3219 sshannon@mcnair.net
--	-----------------------	--

Intervenors

Office of Regulatory Staff	1401 Main Street, Suite 900 Columbia, SC 29201	Phone: 803-737-0800 Fax: 803-737-0801
South Carolina Telephone Coalition	,	Phone: Fax:

Matters

MatterID	Type	Summary	Date	PDF(s)
225481	Tariff	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Authorized Utility Representative Form and Local Exchange Services Tariff No. 1, Interexchange Services Tariff No. 2 and Access Services Tariff No. 3 <i>On behalf of: Big River Telephone Company, LLC</i>	8/25/2010	Scanned Matter
224809	Exhibit	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation	7/14/2010	Exhibit 1 - Settlement Agreement Cover Sheet

		<p>- Exhibit 1 to Settlement Agreement <i>On behalf of: Big River Telephone Company, LLC</i></p>		
224841	Directive	<p>Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Commission Directive - Agenda Item #6 - Discuss This Matter with the Commission <i>On behalf of: Clerk's Office</i></p>	7/14/2010	Directive
224441	Proposed Order	<p>Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Proposed Order <i>On behalf of: Commission Staff</i></p>	6/18/2010	Scanned Matter
224305	Agreement	<p>Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State</p>	6/9/2010	Settlement Agreement Cover Sheet

		of South Carolina and for Flexible and Alternative Regulation - Settlement Agreement <i>On behalf of: Office of Regulatory Staff</i>		
224225	Stipulation	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Stipulation <i>On behalf of: South Carolina Telephone Coalition</i>	6/1/2010	Stipulation Cover Sheet
224076	Directive	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Commission Hearing Examiner Directive - Motion to Hold Hearing by Videoconference <i>On behalf of: Hearing Examiner - David Butler</i>	5/20/2010	Directive
		Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and		Gerard Howe Tmy

223965	Testimony	Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Testimony of Gerard J. Howe <i>On behalf of: Big River Telephone, LLC</i>	5/17/2010	Certificate of Service Cover Sheet
223970	Publisher's Affidavit	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Proofs of Publication Posted in the Following Newspapers: The Greenville News in Greenville County, The State in Richland County, and The Post and Courier in Charleston County <i>On behalf of: Big River Telephone, LLC</i>	5/17/2010	Filing letter Affidavits of Publication Cover Sheet
223971	Petition	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Petition to Intervene <i>On behalf of: South Carolina Telephone Coalition</i>	5/17/2010	Petition to Intervene Cover Sheet

223974	Motion	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Motion to Hold Hearing by Videoconference <i>On behalf of: Big River Telephone, LLC</i>	5/17/2010	Motion - Videoconference Certificate of Service Cover Sheet
223591	Directive	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Commission Hearing Examiner Directive - Motion for Protective Treatment of Financial Statements of the Company, Which Were Filed as Exhibit 4 to the Company's Application <i>On behalf of: Hearing Examiner - David Butler</i>	4/21/2010	Directive
		Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange,		

223464	Profile Testimony Letter	Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Revised Profile Testimony Letter <i>On behalf of: Clerk's Office</i>	4/15/2010	Revised Profile Letter
223475	Directive	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities- Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Commission Directive - Agenda Item #2 - Discuss with the Commission the Appointment of a Hearing Examiner in Docket No. 2010- 137-C <i>On behalf of: Clerk's Office</i>	4/14/2010	Directive
223432	Transmittal Letter	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities- Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Transmittal Letter <i>On behalf of: Clerk's Office</i>	4/14/2010	Transmittal Letter
		Application of Big River Telephone Company, LLC for a		

DDM 000614

223434	Notice	Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Notice of Filing and Hearing <i>On behalf of: Clerk's Office</i>	4/14/2010	Notice of Filing and Hearing
223435	Prefile Testimony Letter	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Prefile Testimony Letter <i>On behalf of: Clerk's Office</i>	4/14/2010	Prefile Letter
223420	General Matter	Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation - Notice of Appearance of Counsel C. Lessie Hammonds <i>On behalf of: Office of Regulatory Staff</i>	4/13/2010	Notice Of Appearance Cover Sheet
		Application of Big River Telephone		

DDM 000615

223296	Application	<p>Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation</p> <p><i>On behalf of: Big River Telephone Company, LLC</i></p>	4/6/2010	Application
223297	Motion	<p>Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation</p> <p>- Motion for Confidential Treatment of Exhibit 4 (Financials)</p> <p><i>On behalf of: Big River Telephone Company, LLC</i></p>	4/6/2010	PSC letter filing application and motion motion confidential financials Cover Sheet

Orders			
Order#	Summary	Date	PDF(s)
2010-494	<p>Order Granting Certificate - Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation</p>	7/27/2010	Order Number 2010-494
	<p>Order Appointing Hearing Examiner - Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide</p>		Order Number

DDM 000616

2010-299	Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible and Alternative Regulation	5/4/2010	2010-299
--------------------------	--	----------	--------------------------

Timeline

Event	Date
Application Received	4/6/10
Issue Final Order	8/4/10
Proof Pub Due For Merits Hearing	5/17/10
Return Date	5/17/10
Applicant/Complainant/Petitioner Testimony Due	5/17/10
All Other Parties Due Date	6/1/10
Rebuttal Testimony Due Date	6/7/10
Surrebuttal Testimony Due Date	6/10/10

Hearings

Date	Status	Notes
Monday, June 14, 2010 @ 10:00 AM	Scheduled	To be heard before a Hearing Examiner

Site powered By Docket Master | Created & Maintained By [ICAP](#)
[Email WebMaster](#)



Bonnie D. Shealy

1901 MAIN STREET, SUITE 1200
POST OFFICE BOX 944
COLUMBIA, SOUTH CAROLINA 29202

PH
(803) 779-8900 | (803) 227-1102 *direct*

FAX
(803) 252-0724 | (803) 744-1551 *direct*

bshealy@robinsonlaw.com

April 6, 2010

VIA ELECTRONIC FILING
HAND DELIVERED ORIGINAL

Jocelyn Boyd, Interim Chief Clerk of the Commission
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29211

**Re: Big River Telephone Company, LLC
South Carolina Telecommunications Certification**

Dear Ms. Boyd:

Enclosed for filing please find the Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to provide local, access and interexchange telecommunications services in South Carolina and for alternative and flexible regulatory treatment. We are also filing a Motion for Protective Treatment to file the confidential financial statements, Exhibit 4, under seal as a Trade Secret. Copies of the Application and Motion being hand delivered to the Commission and the Office of Regulatory Staff contain Exhibit 4 filed under seal. Please stamp the extra copy of the application and motion provided as proof of filing and return it with our courier.

If you have any questions, please have someone on your staff contact me.

Very truly yours,

ROBINSON, MCFADDEN & MOORE, P.C.

Bonnie D. Shealy

/bds

Enclosures

cc/enc: Dan F. Arnett, ORS Chief of Staff (via email & hand delivery)
Mr. Brian Howe (via email)

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In the Matter of the Application of Big River Telephone Company, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange, Access, and Interexchange Telecommunications Services in the State of South Carolina and for Flexible And Alternative Regulation)
)
)
)
) Docket No. _____
)
)
)
)
)
)

APPLICATION OF BIG RIVER TELEPHONE COMPANY,

Big River Telephone Company, LLC (“Applicant” or “Big River”), by its undersigned counsel and pursuant to South Carolina Code § 58-9-280, 26 S.C. Regs. 103-823 and the rules and regulations of the Public Service Commission of South Carolina (“Commission”) hereby applies for a Certificate of Public Convenience and Necessity to authorize it to provide facilities-based and resold local exchange, access and interexchange telecommunications service throughout the State of South Carolina. Applicant requests that its interexchange services be subject to alternative regulation, pursuant to South Carolina Code § 58-9-585 (Supp. 2009), as was first granted by the Commission in Order Nos. 95-1734 and 96-55 issued in Docket No. 95-661-C as modified by Order No. 2001-997 in Docket No. 200-407-C. Applicant also requests flexible regulation for its local exchange telecommunications services as the Commission granted in Order No. 98-165 in Docket No. 97-467-C.

The State of South Carolina has adopted a policy of allowing competition in the local and long distance telecommunications markets, recognizing that it is in the public interest to develop effective competition to ensure that all consumers will have access to high quality, low cost, and innovative telecommunications services. The Federal Telecommunications Act of 1996 also

seeks to promote competition and reduce regulation in order to secure lower prices and higher quality telecommunications services for American consumers. Both goals will be promoted by granting this Application.

The Applicant submits the following information in support of its request.

Description of the Applicant

1. Applicant is a limited liability company organized under the laws of the State of Delaware on May 2, 2001. Applicant has its principal office located at 24 S. Minnesota Ave, Cape Girardeau, MO 63703. Applicant will not use an assumed or fictitious name in South Carolina.

2. Applicant may be reached at its principal place of business:

24 S. Minnesota Ave
Cape Girardeau, MO 63703
(573) 651-3373 (Telephone)
(573) 651-3605 (Fax)

3. Correspondence or communications pertaining to this Application should be directed to:

Bonnie D. Shealy, Esquire
Robinson, McFadden & Moore, P.C.
1901 Main Street, Suite 1200
P.O. Box 944
Columbia, South Carolina, 29202
Tel: 803-779-8900
Fax: 803-252-0724
Email: bshealy@robinsonlaw.com

4. Questions concerning the ongoing operations of Applicant following certification should be directed to:

Andrew Schwantner
Big River Telephone Company
12444 Powerscourt, Suite 270
St. Louis, MO 63131
Tel: (314) 225-2203
Fax: (314) 225-2235
Email: as@bigrivertelephone.com

Applicant's registered agent in the State of South Carolina is:

CT Corporation System
2 Office Park Court, Suite 103
Columbia, SC 29223

For purposes of consumer inquiries, the contact information will be:

Big River Telephone Company Customer Service
24 S. Minnesota Ave
Cape Girardeau, MO 63703
(800) 455-1608 (Telephone)
(573) 651-3605 (Fax)
Email: nwinkler@bigrivertelephone.com

Retail customer service will be available 8:00 AM to 5:00 PM, Monday through Friday. For trouble reports outside of the aforementioned business hours, calls that go to (800) 455-1608 are answered and reported to on-call personnel.

Officer Responsible for Customer Service is:

Kevin Cantwell
12444 Powerscourt, Suite 270
St. Louis, Missouri 63131
(314) 225-2201 (Telephone)
(314) 225-2231 (Fax)
Email: kcantwell@bigrivertelephone.com

5. As a limited liability company, Applicant does not have directors. All officers can be reached through Applicant's principal place of business provided above.

Qualifications

6. As stated above, Applicant is a Delaware limited liability company which was formed on May 2, 2001. A copy of its Certificate of Formation is attached hereto as Exhibit 1. Applicant's authority to transact business as a foreign corporation in South Carolina is attached hereto as Exhibit 2.

7. Applicant is well qualified to provide telecommunications services in South Carolina. Applicant is authorized to provide local exchange and interexchange telecommunications services in twenty one states. Applicant's existing management team and its technical and operations staffs are responsible for providing local exchange and interexchange operations in other states. Big River is a competitive provider of local and long distance phone services and Internet access services throughout territories served by AT&T, Verizon, Windstream, Qwest and a variety of other smaller independent telephone companies. The Applicant has not been denied requested certification in any jurisdiction, nor has any permit, license, or certificate been revoked by any authority.

As illustrated in Exhibit 3 attached hereto, the members of Applicant's senior management team have extensive experience in the telecommunications industry. These executives have both highly effective management skills and considerable telecommunications expertise. The biographies of these key executives are submitted as evidence that Manager possesses the managerial qualifications required for the provision of local and long distance services on behalf of Applicant.

8. The following individuals are the officers of Big River Telephone Company:

<u>Name</u>	<u>Title</u>
Gerard J. Howe	CEO
Kevin B. Cantwell	President
John F. Jennings	CFO
Kevin Keaveny	Vice President – Operations

9. Financial information demonstrating Applicant's financial qualifications is filed under seal as Exhibit 4. As shown in the attached information, Applicant is financially qualified to operate within the State of South Carolina. Big River is a privately held company. Big River does not issue annual reports or submit any financial filings with the Securities and Exchange Commission. Applicant respectfully requests that the financial statements disclosed in connection with this Application be filed under seal, solely for the purpose of the Commission's and ORS' review. Applicant is simultaneously filing a motion for protective treatment of Exhibit 4 of this Application.

Description of Services

10. Applicant seeks authority to provide facilities-based and resold local exchange, access and interexchange telecommunications services to and from all points in the State of South Carolina.¹ Therefore, Applicant seeks statewide authority. Applicant will offer basic local exchange services, custom calling features, and interexchange toll services, including toll free services, to business and residential customers. Applicant will also offer access services to businesses and enterprise customers. While Applicant will not initially offer prepaid local exchange and interexchange services, Applicant may offer such services in the future. Applicant may also provide access services to payphone service providers. Facilities-based local exchange service will be provided via (a) commercial wholesale agreements with incumbents, (b) the company's own facilities, (c) in conjunction with a cable TV operator, or (d) a combination thereof. Initially, toll services will be provided via Applicant's underlying long distance carrier. Applicant, however, seeks the full range of resold and facilities-based local exchange, access and interexchange authority so that it can have flexibility in provisioning its services in the future.

¹ Applicant will seek to enter into a stipulation with the South Carolina Telephone Coalition with respect to providing service in rural areas. Applicant is not asking the Commission to make a

Applicant will continuously monitor and maintain a high level of control over its network on a 24-hours-a-day, 7-days-a-week basis.

Public Interest Considerations

11. Granting this Application will promote the public interest by increasing competition in the provision of telecommunications services in South Carolina. Applicant will provide customers high quality, cost effective telecommunications services, with an emphasis on customer service. In addition to driving prices closer to costs, thereby ensuring just and reasonable rates, competition also promotes efficiency in the delivery of services and in the development of new services. These benefits work to maximize the public interest by providing continuing incentives for carriers to reduce costs while, simultaneously, promoting the availability of potentially desirable services.

Regulatory Compliance and Waivers

12. As required by South Carolina Code 58-9-280, attached hereto are copies of Applicant's proposed initial tariffs containing rates, terms, and conditions for the services proposed herein. Attached as Exhibit 5 is Applicant's proposed local exchange service tariff. Attached as Exhibit 6 is Applicant's proposed interexchange service tariff. Attached as Exhibit 7 is Applicant's proposed access service tariff.

13. Initially, Applicant will market its services in conjunction with cable TV operators with whom it contracts for network services and whom will serve as a sales agent for Big River. In the future, Applicant may also sell directly to the consumer. Applicant does not currently have promotional materials to be used in South Carolina; however, if required by the Commission, Applicant will provide the Commission copies of such materials when they become available.

finding at this time regarding whether competition is in the public interest for rural areas.

14. As stated above, Applicant's toll-free number for customer service is (800) 455-1608. Applicant's customer service representatives will monitor calls to this number twenty-four hours a day, seven days a week. The toll-free customer service number will be printed on each customer provided bill.

15. The company representative identified below has overall responsibility for customer service and quality of service, including repairs, maintenance, complaints, billing questions, and customer refunds:

Nicole Winkler
24 S. Minnesota Ave
Cape Girardeau, MO 63703
(573) 388-3730 (Telephone)
(573) 651-3605 (Fax)
Email: nwinkler@bigrivertelephone.com

16. Pursuant to the requirements of 26 S.C. Reg. 103-631 Big River will have its customers information listed in a telephone directory and list its customers with at least one provider of directory assistance. Applicant plans to enter into an agreement with the directory publisher of BellSouth Telecommunications, Inc., doing business as AT&T ("AT&T") to include the names of its customers in AT&T's directories, or with any other incumbent telephone company in whose area Big River may provide service.

17. Applicant requests, pursuant to 26 S.C. Regs. 103-610, that it be allowed to keep all records required under the rules at its principal offices in the State of Missouri. In the absence of such a waiver, Applicant would have to assume additional expenses to maintain records and reports in an office in South Carolina. Applicant will maintain the required records at its headquarters and will make them available to the Commission and ORS upon request.

18. Applicant requests that it be exempt from any record keeping rules or regulations that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (“USOA”). The USOA was developed by the Federal Communications Commission as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Applicant will not be subject to rate base regulation and therefore requests Commission approval of Applicant maintaining its books in accordance with Generally Accepted Accounting Principals (“GAAP”).

19. Applicant requests a waiver of 26 S.C. Regs. 103-612.2.3, the requirement to file operating maps with the Commission. Applicant intends to offer its services statewide. The waivers requested above have been granted under similar situations, and Applicant requests that the Commission provide it similar treatment.

20. Applicant also requests waivers of any reporting requirements which, although applicable to incumbent local exchange carriers, are not applicable to competitive carriers such as Applicant because such requirements are not consistent with the demands of the competitive market and constitute an undue burden on a competitive carrier.

21. Applicant requests flexible regulation for its telecommunications services as the Commission granted in Order No 98-165 in Docket No. 97-467-C. Specifically, Applicant requests that the Commission: a) adopt for local exchange services a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels; and b) presume that Applicant’s tariff filings for local exchange services be valid upon filing, subject to the Commission’s authority, within thirty (30) days, to institute an investigation of such filings. At the discretion of the Commission such filings may be suspended

pending further order of the Commission and any such filings may be subject to the same monitoring process as the Commission applies to other, similarly situated carriers.

22. Applicant requests that its interexchange business services, consumer card services, operator services², and private line service offerings be regulated pursuant to the procedures described and set forth in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, as modified by Order No. 2001-997 in Docket No. 2000-407-C. Specifically, Applicant requests that the Commission: a) remove the maximum rate tariff requirements for these services; b) presume that Applicant's tariff filings for these services be valid upon filing unless the Commission institutes an investigation of a particular filing within seven (7) days, in which case the tariff filing will be suspended until further order of the Commission; and c) grant Applicant the same treatment as AT&T-Southern States in connection with any future relaxation of the Commission's reporting requirements.

23. In addition to the above requested waivers and requests, Applicant reserves the right to seek any regulatory waivers that may be required for it to compete effectively in the South Carolina telecommunications market.

For the reasons stated above, Applicant respectfully submits that the public interest, convenience, and necessity would be furthered by a grant of this Application for the authority to provide all types of facilities-based and resold local exchange, access and interexchange telecommunications services. Also, Applicant respectfully requests that the Commission grant the waivers requested in this Application, including flexible and alternative regulation in accordance

² Excepting those operator-assisted calls where a consumer uses a local exchange carrier's calling card to complete calls from locations which have not selected the local exchange carrier as their toll provider. Operator surcharges and per-minute rates for this type of call were capped by Order No. 2001-997 dated November 8, 2001.

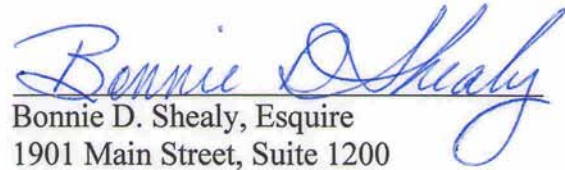
with South Carolina Code Ann. Section 58-9-585 (Supp. 2009) in the same manner as granted by the South Carolina Public Service Commission in Order Nos. 95-1734, 96-55, 98-165, and 2001-997.

Dated this 6th day of April, 2010.

Respectfully submitted,

Robinson, McFadden & Moore, P.C.

By:



Bonnie D. Shealy, Esquire
1901 Main Street, Suite 1200
P.O. Box 944
Columbia, SC, 29202
Telephone 803-779-8900
Fax 803-252-0724
bshealy@robinsonlaw.com

Attorneys for Big River Telephone
Company, LLC

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In the Matter of the Application of Big River)
Telephone Company, LLC for a Certificate of)
Public Convenience and Necessity to Provide)
Resold and Facilities-Based Local Exchange,)
Access, and Interexchange Telecommunications)
Services in the State of South Carolina and for)
Flexible And Alternative Regulation)

LIST OF EXHIBITS

Exhibit 1	Certificate of Formation
Exhibit 2	Authority to Transact Business as a Foreign Entity
Exhibit 3	Management Biographies
Exhibit 4	Financial Statements - CONFIDENTIAL & PROPRIETARY - FILED UNDER SEAL
Exhibit 5	Local Exchange Tariff
Exhibit 6	Interexchange Tariff
Exhibit 7	Access Tariff

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In the Matter of the Application of Big River)
Telephone Company, LLC for a Certificate of)
Public Convenience and Necessity to Provide)
Resold and Facilities-Based Local Exchange,)
Access, and Interexchange Telecommunications)
Services in the State of South Carolina and for)
Flexible And Alternative Regulation)

EXHIBIT 1

Certificate of Formation

CERTIFICATE OF FORMATION
OF
BIG RIVER TELEPHONE COMPANY, LLC

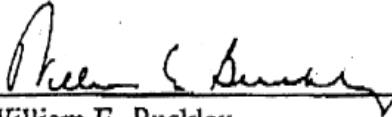
This Certificate of Formation of BIG RIVER TELEPHONE COMPANY, LLC (the "Company") is being executed by the undersigned for the purpose of forming a limited liability company pursuant to the Delaware Limited Liability Company Act.

1. The name of the limited liability company is:

BIG RIVER TELEPHONE COMPANY, LLC

2. The address of the registered office of the Company in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle, State of Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

IN WITNESS WHEREOF, the undersigned, an authorized person of the Company, has caused this Certificate of Formation to be duly executed as of the 2nd day of May, 2001.



William E. Buckley

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In the Matter of the Application of Big River)
Telephone Company, LLC for a Certificate of)
Public Convenience and Necessity to Provide)
Resold and Facilities-Based Local Exchange,)
Access, and Interexchange Telecommunications)
Services in the State of South Carolina and for)
Flexible And Alternative Regulation)

EXHIBIT 2

Authority to Transact Business as a Foreign Entity

The State of South Carolina



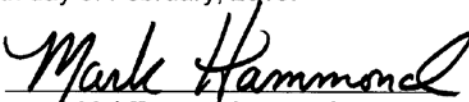
Office of Secretary of State Mark Hammond

Certificate of Authorization

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

BIG RIVER TELEPHONE COMPANY, LLC, A Limited Liability Company duly organized under the laws of the State of DELAWARE, and issued a certificate of authority to transact business in South Carolina on February 10th, 2010, with a duration that is at will, has as of this date filed all reports due this office, paid all fees, taxes and penalties owed to the Secretary of State, that the Secretary of State has not mailed notice to the company that it is subject to being dissolved by administrative action pursuant to section 33-44-809 of the South Carolina Code, and that the company has not filed a certificate of cancellation as of the date hereof.

Given under my Hand and the Great
Seal of the State of South Carolina this
11th day of February, 2010.


Mark Hammond, Secretary of State

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In the Matter of the Application of Big River)
Telephone Company, LLC for a Certificate of)
Public Convenience and Necessity to Provide)
Resold and Facilities-Based Local Exchange,)
Access, and Interexchange Telecommunications)
Services in the State of South Carolina and for)
Flexible And Alternative Regulation)

EXHIBIT 3

Management Biographies

MANAGEMENT BIOGRAPHIES

As stated in the Application, Big River's South Carolina operations will be directed by Applicant's existing management team and technical and operations staffs that are responsible for its local exchange and interexchange operations in other states. The following individuals comprise Big River's executive management team.

Gerard J. Howe

Mr. Howe is the Chief Executive Officer of Big River. Mr. Howe has over 32 years experience in the telecommunications industry, including 18 years at AT&T, formerly Southwestern Bell. Immediately prior to establishing Big River, Mr. Howe founded Gabriel Communications, where he was the President and Chief Operating Officer. Gabriel, later renamed to Nuvox Communications, was a full service communications company providing local, long distance and Internet services in 28 markets across the midwest and southeast U.S. Nuvox was recently acquired by Windstream Communications.

Prior to founding Gabriel Communications, Mr. Howe spent 2 years with Brooks Fiber Properties ("BFP") as Senior Vice President – Finance. Brooks Fiber, which competed directly with the regional Bell operating companies, constructed and operated digital fiber optic networks providing reliable high-capacity voice, video, data, and other enhanced telecommunications services to business, government, and carrier customers. Mr. Howe was instrumental in establishing the financial operations of Brooks, which raised over \$1.5 billion in investment capital to successfully launch the company.

During his tenure with AT&T, Mr. Howe held a variety of executive positions in the areas of Finance, Regulatory Affairs, Information Technology, and Customer Service. From 1993 through 1995, Mr. Howe served as the Chief Financial Officer of SBC Cablecomms, U.K., a competitive cable/telephone service provider in the U.K. that provided its services over a state-of-the-art hybrid fiber/coax network. Mr. Howe negotiated the sale of SBC CableComms, U.K., for over \$1 billion in 1995. Prior to his assignment in the U.K., Mr. Howe was the Chief Financial Officer of Southwestern Bell Yellow Pages.

Mr. Howe has a B.S. in Mathematics from Southern Illinois University and an MBA from St. Louis University.

Kevin Cantwell

Mr. Cantwell is the President of Big River. Mr. Cantwell has over 25 years experience in the information/communications industry, including 11 years at AT&T. Immediately prior to joining Big River, Mr. Cantwell was the Vice-President of Emerging Markets at WorldWide Technology. At WorldWide, Mr. Cantwell developed a business unit focused on the new carriers in the telecommunication industry. His experience and industry knowledge helped formulate a thriving organization that increased its revenues from \$610M in 2000 to almost \$1B dollars in 2001.

Immediately prior to his stint at WorldWide, Mr. Cantwell spent 2 years with Abiliti Solutions as Vice President – Sales. Abiliti Solutions is a leading provider of Telecommunications Billing

software for the competitive local telecommunications and long distance providers in the United States. Mr. Cantwell was recruited to Abiliti from Convergys. At Convergys he was the Vice President of Sales and had extensive international experience forging business relationships with PTT's across the globe. His organization was focused on providing Operation Support Services software to Internet service providers.

During his years with AT&T Communications, Mr. Cantwell held a variety of executive positions in the areas of Sales and Marketing. He managed resources throughout the country focused on selling long distance and Internet services to corporate accounts.

Mr. Cantwell has a B.S. in Business and in Education from Central Methodist College and an MBA from Lindenwood University.

Kevin Keaveny

Mr. Keaveny is Vice President - Engineering and Operations at Big River Telephone. Prior to joining Big River, he was Corporate Director of Network Engineering and a co-founder of Gabriel Communications, Inc (later Nuvox Communications).

Mr. Keaveny has more than 30 years experience in the telecommunications industry. During his time at Gabriel Communications he held various positions overseeing the Network Management Control Center, field operations and network engineering. At Gabriel, Mr. Keaveny oversaw the company's network capital budget, equipment selection and procurement process and related professional services, as well as vendor relations and contract administration. He led the engineering and installation of 130 co-location sites in Gabriel Communications 13 city network.

Prior to joining Gabriel, Mr. Keaveny served as Director of Network Management for Brooks Fiber Properties where he managed the company's two Network Management Centers. Mr. Keaveny oversaw the monitoring and technical support for more than 600 metro SONET rings, over 3,000 SONET transport elements, Class 5 Switch Network and all network telemetry systems. The Network Control Centers were operationally certified by AT&T after passing rigorous network integrity and process compliance testing by company quality auditors.

Mr. Keaveny served in a number of management positions at GTE in the areas of technical support and engineering. From 1984 through 1988, he held various engineering positions with Nortel, and prior to that, at Bell Canada in the Computer Communications Group.

Mr. Keaveny is an Electronics Engineering graduate from DeVry University in Toronto, Canada, as well as attending advanced computer and systems management courses at Maryville University in St. Louis.

John F. Jennings

Mr. Jennings is Vice President and Chief Financial Officer of Big River Telephone. Prior to joining Big River Telephone, Mr. Jennings spent 20 years in various Accounting and Finance positions, 10 of which were in the local exchange telecommunications industry. Immediately prior to joining Big River Telephone, Mr. Jennings was the Senior Manger of Operational Accounting at Gabriel Communications. At Gabriel, he oversaw Billing, Revenue and Cost Assurance, Collections, and various general accounting and reporting functions. Prior to joining Gabriel Communications, Mr. Jennings was Assistant Controller at Brooks Fiber Properties.

Mr. Jennings has a B.S. in Business - Accounting from the University of Missouri and is a Certified Public Accountant.

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In the Matter of the Application of Big River)
Telephone Company, LLC for a Certificate of)
Public Convenience and Necessity to Provide)
Resold and Facilities-Based Local Exchange,)
Access, and Interexchange Telecommunications)
Services in the State of South Carolina and for)
Flexible And Alternative Regulation)

EXHIBIT 4

Financial Statements

CONFIDENTIAL & PROPRIETARY

FILED UNDER SEAL

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In the Matter of the Application of Big River)
Telephone Company, LLC for a Certificate of)
Public Convenience and Necessity to Provide)
Resold and Facilities-Based Local Exchange,)
Access, and Interexchange Telecommunications)
Services in the State of South Carolina and for)
Flexible And Alternative Regulation)

EXHIBIT 5

Local Exchange Tariff

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2010-137-C - ORDER NO. 2010-494

JULY 27, 2010

IN RE: Application of Big River Telephone) ORDER GRANTING
Company, LLC for a Certificate of Public) CERTIFICATE
Convenience and Necessity to Provide)
Resold and Facilities-Based Local Exchange,)
Access, and Interexchange)
Telecommunications Services in the State of)
South Carolina and for Flexible and)
Alternative Regulation)

This matter comes before the Public Service Commission of South Carolina ("Commission") by way of the Application of Big River Telephone Company, LLC ("Big River," "the Company," or "the Applicant") for authority to provide local exchange, access, and interexchange telecommunications services within the State of South Carolina (the "Certification Application").

Further, the Company requests that the Commission regulate its local retail telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business interexchange service offerings under modified alternative regulation.

The Company's Application was filed pursuant to S.C. Code Ann. Section 58-9-280, S.C. Code Ann. Section 58-9-585 and the Rules and Regulations of the Commission. By letter, the Commission instructed the Applicant to publish, one time, a prepared

Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). Subsequently, counsel for SCTC filed with the Commission a Stipulation. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on June 14, 2010 at 10:00 a.m. before David Butler, Esquire, Hearing Examiner. Bonnie D. Shealy, Esquire, represented the Company. C. Lessie Hammonds, Esquire, represented the Office of Regulatory Staff ("ORS"). At the outset of the hearing, the Applicant and the ORS entered a Settlement Agreement into the record attached hereto as Order Exhibit 2. Gerard J. Howe, Chief Executive Officer, appeared by video conference and testified in support of the Application.

According to the record, Big River is a Delaware limited liability company. Mr. Howe testified that the Applicant is certificated to provide telecommunications services in a number of states. The Applicant has received authority from the South Carolina Secretary of State to transact business within the State of South Carolina. According to Mr. Howe, Big River will provide resold and facilities-based local exchange telecommunications services, access, and interexchange telecommunications services.

The Applicant's services will be marketed and provided primarily to residential, business, and enterprise customers and will offer such services on a twenty-four (24) hour a day, seven (7) day a week basis. Mr. Howe also testified that the Company had substantial financial resources to ensure the viability of the Company. Both a resume of the key personnel and senior management and financial reports of the Company were submitted into the record.

Mr. Howe finally testified that granting Big River's Application will introduce a telecommunications service provider committed to providing high-quality and cost effective services that will further increase telecommunications competition in the State of South Carolina. He opined that the Commission's granting of the Application is therefore in the public interest.

Mr. Howe asserted that the Company will operate in compliance with all applicable statutes, regulations, and Commission orders. Mr. Howe stated that the Company will abide by all applicable Commission rules, regulations and orders upon the Company receiving certification to provide intrastate interexchange, access, and local exchange telecommunications services in South Carolina.

Mr. Howe also discussed the Company's request for certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the Uniform System of Accounts ("USOA"). Mr. Howe also requested that the Company be granted a waiver of 26 S.C. Code Ann. Regs. 103-610, so that the Company is permitted to maintain its records outside of South Carolina. The Company wishes to maintain its

books and records in its principal place of business located in Missouri. Further, Big River requests a waiver of 26 S.C. Code Ann. Regs. 103-612.2.3, which is the requirement to file operating maps with the Commission. According to the testimony, Big River intends to offer its services statewide.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Company is a limited liability company which exists under the laws of the State of Delaware and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. The Company is a provider of local exchange, access, and interexchange telecommunications services and wishes to provide its services in South Carolina. The Company is not providing prepaid local exchange services at this time; prior to offering such services the Company has agreed to comply with the Commission's bond requirements.

3. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B) (1)

4. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B) (3).

5. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B) (4).

6. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B) (2).

7. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B) (5).

8. Following execution of the Stipulation with the SCTC, the SCTC withdrew its opposition to the Application.

9. The Settlement Agreement between the Company and the ORS is fair and reasonable and in the public interest.

CONCLUSIONS OF LAW

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange and interexchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the provision of local exchange services by the Company will not otherwise adversely impact the public interest.

6. Based on the above findings of fact and conclusions of law, the Commission determines that a statewide Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services, on a facilities and/or on a resold basis. The terms of the Stipulation between the Company and SCTC are approved and adopted as a part of this Order. Any proposal to provide local telecommunications service to rural service areas is therefore subject to the terms of the Stipulation. In addition, the Company is granted authority to provide access and interexchange telecommunications services through facilities or through the resale of services offered by other carriers approved by the Commission.

7. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an

investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

8. The Commission adopts a rate design for the long distance services of the Company consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and modified by Order No. 2001-997.

9. Under the Commission approved modified alternative regulation, the business service offerings of the Company, including consumer card services and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses an incumbent local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until

further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to the Company also.

10. With regard to the residential interexchange service offerings of the Company, the Commission adopts a rate design that includes only maximum rate levels for each tariff charge. The Commission has previously adopted a rate structure incorporating maximum rate levels. In Re: Application of GTE Sprint Communications Corporation, etc. Order No. 84-622, issued in Docket No. 1984-10-C (August 2, 1984).

11. With regard to residential interexchange service rates, the Company shall not adjust its residential interexchange service rates below the approved maximum levels without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances that do not affect the general body of subscribers or do not constitute a general rate reduction, In Re: Application of GTE Sprint Communications, etc. Order No. 93-638, issued in Docket No. 1984-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540.

12. We conclude that the Applicant's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially

causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA. Last, we grant a waiver of 26 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory.

13. The Settlement Agreement between ORS and Big River is approved.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to Big River to provide competitive local exchange, access, and interexchange telecommunications services, on a facilities or resold basis.

2. The terms of the Stipulation between the Company and the SCTC are approved and adopted as part of this Order. The Stipulation is attached as Order Exhibit No. 1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of the Stipulation.

3. The Company shall file, if it has not already done so by the date of issuance of this Order, its revised local, access and long distance tariffs. The revised tariffs should be electronically filed in a test searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariffs should be made using the ETariff System. The revised tariffs shall be consistent with the findings of this Order and agreements with other parties to this case. The revised tariffs shall be consistent with the Commission's Rules and Regulations, and shall be filed as stated within 30 days of receipt of this Order.

4. The Company is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that, for access charge purposes, resellers should be treated similarly to facilities-based interexchange carriers.

5. With regard to the Company's interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. To the extent the Company resells interexchange services, the Company shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If the Company changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, the Company shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 1992-182-C, 1992-183-C, and 1992-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission ("FCC"), pursuant to the Telecommunications Act of 1996 (See 47 CFR 51.209). Specifically, the Company shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Big River is required to comply with Title 23, Chapter 47, South Carolina Code of Laws Annotated which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a 911

system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, the Applicant is directed to contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

9. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of South Carolina specific information. Therefore, the Company shall keep financial records on its South Carolina operations to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website or at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual

financial information as directed by the Commission or ORS and shall be filed no later than April 1st.

Commission gross receipts forms are due to be filed no later than August 31st of each year. The proper form for filing gross receipts information can be found at the ORS website www.regulatorystaff.sc.gov and the appropriate form is entitled “Gross Receipts Form.”

Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund (“USF”) Contribution Worksheet, which may be found on the ORS’s website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The State USF worksheet is due to be filed annually no later than July 1st with the ORS.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. The Company shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the ORS website at www.regulatorystaff.sc.gov. This form shall be utilized for the provision of this

information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced. If the Company changes or modifies its name, the Company shall file such changes with the Commission for approval.

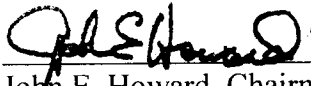
11. The Company shall conduct its businesses in compliance with Commission decisions and orders, both past and future.

12. The Company is granted a waiver of 26 S.C. Code Ann. Regs. 103-610 requiring the Company to maintain its financial books and records within the State of South Carolina. However, as a condition of being granted a waiver of the requirement to maintain corporate books and records within the State Of South Carolina the Company shall make such books and records available, at the Company's expense, to the Office of Regulatory Staff upon request. Further, the Company is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts ("USOA"). Last, the Commission grants the Applicant's request for the waiver of the requirement that it file a map of its service territory as required by 26 S.C. Code Ann. Regs. 103-612.2.3. The Company is directed to comply with all Rules and Regulations of the Commission, unless the Commission specifically waives compliance with a regulation.

13. The Settlement Agreement between Big River and ORS is hereby approved and attached as Order Exhibit No. 2.

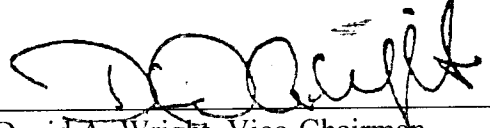
14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice-Chairman
(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2010-137-C

Re: Application of Big River Telephone Company)
for a Certificate of Public Convenience and)
Necessity to Provide Resold and Facilities-based)
Local Exchange, Access, and Interexchange)
Telecommunications Services in the State of)
South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Big River Telephone Company, LLC ("Big River") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Big River's Application. SCTC and Big River stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Big River, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Big River stipulates and agrees that any Certificate which may be granted will authorize Big River to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Big River stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.
4. Big River stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

until Big River provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Big River acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Big River stipulates and agrees that, if Big River gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Big River will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Big River acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Big River, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

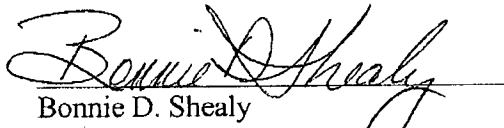
8. Big River agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Big River hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 19th day of May,
2010.

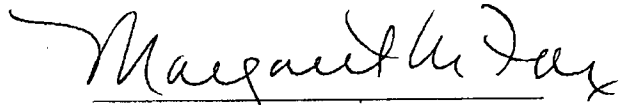
Big River Telephone Company, LLC

South Carolina Telephone Coalition:



Bonnie D. Shealy
Robinson, McFadden & Moore, P.C.
Post Office Box 944
Columbia, South Carolina 29202
(803) 779-8900

Attorneys for Applicant Big River
Telephone Company, LLC



M. John Bowen, Jr.
Margaret M. Fox
Sue-Ann Gerald Shannon
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2010-137-C

In Re:)
Application of Big River Telephone)
Company, LLC for a Certificate of Public)
Convenience and Necessity to Provide) **SETTLEMENT AGREEMENT**
Resold Local Exchange, Access, and)
Interexchange Telecommunications)
Services and for Flexible and Alternative)
Regulation)

This Settlement Agreement (“Settlement Agreement”) is made by and among the Office of Regulatory Staff (“ORS”) and Big River Telephone Company, LLC (“Big River ” or “the Company”) (collectively referred to as the “Parties” or sometimes individually as “Party”);

WHEREAS, on April 6, 2010, Big River filed its Application requesting: (i) a Certificate of Public Convenience and Necessity be granted authorizing the Company to provide facilities based and resold local exchange services and interexchange; (ii) flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165 in Docket No. 97-467-C; (iii) for interexchange service offerings to be regulated in accordance with procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C; (iv) waiver of certain regulations of the Public Service Commission of South Carolina (“Commission”), specifically Regulation 103-610 regarding location of records, and 103-612.2.3 for operating maps; and (v) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts (“USOA”);

WHEREAS, on April 13, 2010, counsel for ORS entered a Notice of Appearance in this matter;

WHEREAS, on May 4, 2010, the Commission issued its Order No. 2010-299 by which the Commission appointed David Butler, Esquire as the Hearing Examiner in this matter;

WHEREAS on April 14, 2010, the Commission issued a Notice of Filing and Hearing and established a return date of May 17, 2010, for the filing of letters of protest or petitions to intervene and established a hearing date of June 14, 2010 for the application to be heard before a hearing examiner;

WHEREAS, on May 17, 2010, South Carolina Telephone Coalition (SCTC) filed a petition to intervene and later filed a stipulation on June 1, 2010;

WHEREAS, on May 17, 2010, the Company filed the direct testimony of Gerard J. Howe with the Commission;

WHEREAS, the purpose of this proceeding is to review the application filed by the Company and its requests: (i) for a Certificate of Public Convenience and Necessity to provide facilities based and resold local exchange and interexchange services within the State of South Carolina; (ii) for flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165 in Docket No. 97-467-C; (iii) for waiver of certain of the Commission Regulations, specifically Regulation 103-610 regarding location of records, and Regulation 103-631 concerning publishing and distributing local exchange directories, (iv) 1103-612.2.3 for operating maps; and (v) for waiver of any requirement to maintain financial records in conformance with the USOA;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide the services requested in the Application;

WHEREAS, ORS has reviewed the Application and the financial data provided by the Company, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by the Company and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by the Company;

WHEREAS, ORS has reviewed the pre-filed testimony of Gerard J. Howe.;

WHEREAS, as a result of its investigations, ORS has determined: (a) the Company intends to offer facilities based and resold local services such as basic local service, custom calling features, traditional end-to-end business services including local and long distance calling, interexchange toll services to residential customers, IP based offerings, conference calling, private line and other high capacity services; (b) the Company's officers possess sufficient technical and managerial abilities to adequately provide the services applied for; (c) the Company's proposed tariffs with the amendments as agreed to in this Settlement Agreement comply with Commission statutes and regulations; (d) the services provided by the Company will meet the service standards required by the Commission; (e) the provision of services by the Company will not adversely impact the availability of affordable telecommunications services; (f) to the extent it is required to do so by the Commission, the Company will participate in the support of universally available telephone service at affordable rates; and (g) the provision of local services by the Company will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree that Big River 's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;

2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of the Company's witness Gerard J. Howe without cross-examination by ORS;

3) The Company submitted financial data, which was provided as Exhibit 4 to its Application, and which financial data is incorporated by reference;

4) The Company asked for protective treatment of the Financial Statements, Exhibit 4 of the application; on April 21, 2010 Directive Re: Motion for Protective Treatment, protective treatment was granted.

5) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide facilities based, interexchange, and resold local exchange telecommunications services within the state of South Carolina;

6) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2008) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the

State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing the Company to maintain its books and records outside of the State of South Carolina in exchange for the Company agreeing to provide access to its books and records. ORS is agreeable to the Company maintaining its books and records at its principal offices in the State of Missouri, and the Company agrees to notify the ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2008) or § 58-9-1070 (Supp. 2008). ORS expressly reserves its rights to require the production of books, records and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation;

7) The Company has requested a waiver of any rule or regulation that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (“USOA”). The Company acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2008) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission’s jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require every telephone utility to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the ORS. The Company agrees to keep its books, papers, and records in such a manner that permits ORS to audit its revenues and expenses associated with its South Carolina operations for compliance with programs such as but not limited to the Universal Service Fund (“USF”), the Interim LEC Fund, dual party relay service fund, and gross receipts. The Company agrees to complete the reporting forms for such programs

as but not limited to USF, dual party relay service fund, Interim LEC, and gross receipts as may be required by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time;

8) ORS does not oppose Big River's requests (a) for flexible regulation for its local telecommunications service offerings consistent with Order No. 98-165 in Docket No. 97-467-C, such flexible regulation including specifically (i) adoption of a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels and (ii) presumptively valid tariff filings upon filing subject to an investigation of such tariff filing being instituted within thirty (30) days and (b) for alternative regulation of its interexchange service offerings consistent with the procedures described and set forth in Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C, specifically (i) regulation of these services listed above in the same manner as these services are regulated of AT&T Communications of the Southern States, Inc., (ii) removal of the maximum rate tariff requirements for Big River's business services, private line, and customer network-type offerings, except in instances governed by Order No. 2001-997 which reinstated maximum rates for surcharges and rates associated with certain intrastate operator-assisted calls; (iii) presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the investigation or until further order of the Commission; and (iv) grant Big River the same treatment as AT&T Communications of the Southern States, Inc. in connection with any future relaxation of reporting requirements;

9) ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regulation 103-612.2.3 which requires the filing of operating area maps;

10) ORS does not oppose the Company's requests: (a) for flexible regulation for its local telecommunications service offerings consistent with Order No. 98-165 in Docket No. 97-467-C, such flexible regulation including specifically (i) adoption of a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels and (ii) presumptively valid tariff filings upon filing subject to an investigation of such tariff filing being instituted within thirty (30) days .

11) The Company agrees to resell the services only of those local exchange providers authorized to do business in South Carolina by the Commission. The Company agrees to notify ORS and the Commission, in writing, of its underlying carriers and if Big River changes its underlying carriers;

12) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, dual party relay service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as Big River . The Parties agree that such reports shall be filed pursuant to ORS's instructions and monies shall be remitted in accordance with the directions of the ORS and the Commission requirements.

13) The Company agrees to maintain its books and records associated with its South Carolina operations in a manner that would permit ORS to examine any of Big River's reports filed with the Commission and provided to ORS.

14) The Company agrees to file with the Commission and ORS a completed authorized utility representative forms within thirty (30) days of the Commission's order.

15) In the event that the Company offers prepaid calling card services in the future, Big River agrees that it shall obtain Commission approval and post a surety bond in the amount of \$5,000 as required by the Commission;

16) In the event that the Company expands its authority and offers prepaid local exchange service, Big River agrees to comply with South Carolina Regulation 103-697 in that they will obtain a bond, irrevocable letter of credit, or certificate of deposit per the Commission's request.

17) The Company agrees to comply with South Carolina Code Ann. § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, Big River agrees to adhere to the FCC's rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

18) To the extent necessary, the Company agrees to engage in good faith negotiations with non-BellSouth incumbent local exchange carriers whose networks interconnect with BellSouth at the same local tandem regarding traffic exchange;

19) The Company agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," also known as 911 services." At the time the Company offers or provides any service that would implicate Title 23, Chapter 47, the Company agrees to contact the appropriate authorities regarding 911 services in the counties and cities where it will be operating prior to initiating local service in South Carolina and shall provide the 911 coordinator

in each county and/or city with information regarding the Company's operations. Attached as Exhibit 1 to this Settlement Agreement is a memorandum from the State 911 Office which provides contact information for the County 911 Coordinators;

20) The Company agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

21) The Company agrees to file a final revised tariff with both the ORS and the Commission within thirty days of the Commission Order granting certification, and the revised tariff shall reflect and be in accordance with ORS's recommendations. Further, the Company agrees to file and maintain its tariff with the Commission electronic tariff filing system.

22) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

23) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending

to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

24) The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party;

25) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.

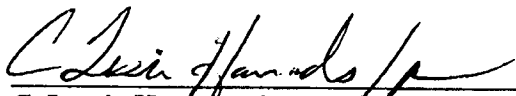
26) This Settlement Agreement shall be interpreted according to South Carolina law.

27) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties

agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

Representing the Office of Regulatory Staff

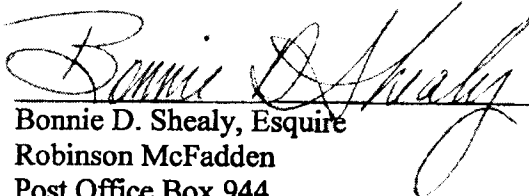


C. Lessie Hammonds, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
Telephone: (803) 737-0800
Fax: (803) 737-0895
Email: lhammon@regstaff.sc.gov

6/9/10
Date

WE AGREE:

Representing Big River Telephone Company, LLC



Bonnie D. Shealy, Esquire
Robinson McFadden
Post Office Box 944
Columbia, SC 29202
Telephone: (803)-779-8900
Fax: (803)-252-0724
Email: bshealy@robinsonlaw.com

June 8, 2010
Date

STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF RESEARCH & STATISTICS

EXHIBIT 1
ORS-BIG RIVER
TELEPHONE
SETTLEMENT AGREEMENT

MARK SANFORD, CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

RICHARD ECKSTROM
COMPTROLLER GENERAL



HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

ROBERT W. HARRELL, JR.
CHAIRMAN, WAYS AND MEANS COMMITTEE

FRANK W. FUSCO
EXECUTIVE DIRECTOR

REMBERT C. DENNIS BUILDING
1000 ASSEMBLY STREET, SUITE 425
COLUMBIA, SOUTH CAROLINA 29201

Bobby Bowers
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at www.ors.state.sc.us/digital/E-911.ASP. If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

ECONOMIC RESEARCH
WILLIAM GILLESPIE
(803) 734-3805

GEODETTIC SURVEY
5 GEOLOGY ROAD
COLUMBIA, S.C. 29210
LEWIS LAPINE
(803) 896-7700

DIGITAL CARTOGRAPHY
(803)734-3802

HEALTH & DEMOGRAPHICS
STATISTICS
1919 BLANDING STREET
COLUMBIA, S.C. 29201
WALTER P. BAILEY, M.P.H.
(803) 898-9941

SECTION 58-9-280. Certificate of public convenience and necessity shall be obtained prior to construction, operation or extension of plant or system; exceptions.

(A) No telephone utility shall begin the construction or operation of any telephone utility plant or system, or of any extension thereof, except those ordered by the commission under the provisions of Section 58-9-270, without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction or operation. But this section shall not be construed to require any telephone utility to secure a certificate for any extension within any municipality or district within which it had lawfully commenced operations on June 16, 1950, or for an extension within or to territory already served by it, necessary in the ordinary course of its business, or for an extension into territory contiguous to that already occupied by it as defined by the commission and not receiving similar service from another telephone utility; but, if any telephone utility in constructing or extending its lines, plant, or system unreasonably interferes or is about to interfere unreasonably with the service or system of any other telephone utility, the commission may make such order and prescribe such terms and conditions in harmony with Articles 1 through 13 of this chapter as are just and reasonable.

(B) After notice and an opportunity to be heard, the commission may grant a certificate to operate as a telephone utility, as defined in Section 58-9-10(6), to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC, subject to the conditions and exemptions stated in this section and in applicable federal law. The provisions of this act shall apply to any such application for a certificate pending before the commission on the effective date of this act; provided, however, that any carrier filing an application to furnish telecommunications service as a private line or special access service provider or as a carrier's carrier prior to March 25, 1996, may elect to comply with the certification requirements in effect on that date rather than those contained within this subsection (B); provided, further, however, that such carrier shall comply with subsection (B)(4) hereof. In determining whether to grant a certificate under this subsection, the commission may require, not inconsistent with the federal Telecommunications Act of 1996, that the:

- (1) applicant show that it possesses technical, financial, and managerial resources sufficient to provide the services requested;
- (2) service to be provided will meet the service standards that the commission may adopt;
- (3) provision of the service will not adversely impact the availability of affordable local exchange service;
- (4) applicant, to the extent it may be required to do so by the commission, will participate in the support of universally available telephone service at affordable rates; and
- (5) provision of the service does not otherwise adversely impact the public interest.

In its application for certification, the applicant seeking to provide the service shall set forth with particularity the proposed geographic territory to be served, and a price list and informational tariff regarding the types of local exchange and exchange access services to be provided. Any person granted authority under this section shall maintain a current price list with the commission and the Office of Regulatory Staff. A commission order, denying or approving an application for certification of a new local telephone service provider, shall be entered no more than sixty days from the filing of the application, except that the commission, upon notice, may extend that period not to exceed an additional sixty days.

(C) The commission shall determine the requirements applicable to all local telephone service providers necessary to implement this subsection. These requirements shall be consistent with applicable federal law and shall:

- (1) provide for the reasonable interconnection of facilities between all certificated local telephone service providers upon a bona fide request for interconnection, subject to the negotiation process set forth in subsection (D) of this section;
- (2) provide for the transfer of telephone numbers between local telephone service providers in a manner that is technically feasible;
- (3) provide for the reasonable unbundling of network elements upon a request from a LEC where technically feasible and priced in a manner that recovers the providing LEC's cost;

(4) determine, for small LEC's, when and under what circumstances resale of local exchange telephone services is in the public interest and should be allowed. Telecommunications services that are available at retail to a specific category of subscribers only shall not be offered for resale to a different category of subscribers; and

(5) provide for the continued development and encouragement of universally available basic local exchange telephone service at reasonably affordable rates.

The final commission order implementing these requirements shall be issued within six months of the effective date of this section, except that the commission, upon notice, may extend that period up to an additional ninety days.

(D) A LEC shall negotiate the rates, terms, and conditions for local interconnection. In the event that the parties are unable to agree on appropriate rates, terms, and conditions for interconnection within one hundred thirty-five to one hundred sixty days of receipt of a bona fide request, either party may petition the commission for determination of the appropriate rates, terms, and conditions for interconnection. This period may be shortened or extended by mutual agreement of the parties. The commission shall determine the appropriate rates, terms, and conditions for interconnection within nine months from the filing of the petition in accordance with the terms of applicable federal law. The regulatory staff shall represent the public interest in any matter undertaken pursuant to this subsection unless the Executive Director of the Office of Regulatory Staff chooses to opt out as a participant pursuant to Section 58-4-50.

(E) In continuing South Carolina's commitment to universally available basic local exchange telephone service at affordable rates and to assist with the alignment of prices and/or cost recovery with costs, and consistent with applicable federal policies, the commission shall establish a universal service fund (USF) for distribution to a carrier(s) of last resort. The commission shall issue its final order adopting such guidelines as may be necessary for the funding and management of the USF within twelve months of the effective date of this section except that the commission, upon notice, may extend that period up to an additional ninety days. These guidelines must not be inconsistent with applicable federal law and shall address, without limitation, the following:

(1) The USF shall be administered by the Office of Regulatory Staff or a third party designated by the Office of Regulatory Staff under guidelines to be adopted by the commission.

(2) The commission shall require all telecommunications companies providing telecommunications services within South Carolina to contribute to the USF as determined by the commission.

(3) The commission also shall require any company providing telecommunications service to contribute to the USF if, after notice and opportunity for hearing, the commission determines that the company is providing private local exchange services or radio-based local exchange services in this State that compete with a local telecommunications service provided in this State.

(4) The size of the USF shall be determined by the commission and shall be the sum of the difference, for each carrier of last resort, between its costs of providing basic local exchange services and the maximum amount it may charge for the services. The commission may use estimates to establish the size of the USF on an annual basis, provided it establishes a mechanism for adjusting any inaccuracies in the estimates.

(5) Monies in the USF shall be distributed to a carrier of last resort upon application and demonstration of the amount of the difference between its cost of providing basic local exchange services and the maximum amount it may charge for such services.

(6) The commission shall require any carrier of last resort seeking reimbursement from the fund to file with the commission and provide to the Office of Regulatory Staff the information necessary to determine the costs of providing basic local exchange telephone services. In the event that a carrier of last resort does not currently conduct detailed cost studies relating to such services, the commission shall allow for an appropriate surrogate for such study.

(7) The commission shall have the authority to make adjustments to the contribution or distribution levels based on yearly reconciliations and to order further contributions or distributions as needed.

(8) After notice and an opportunity for hearing to all affected carriers and the Office of Regulatory Staff, the commission by rule may expand the set of services within the definition of universal service based on

a finding that the uniform statewide demand for such additional service is such that including the service within the definition of universal service will further the public interest; provided, however, that before implementing any such finding, the commission shall provide for recovery of unrecovered costs through the USF of such additional service by the affected carrier of last resort.

(9) Nothing in subsection (G) of this section shall preclude the commission from assessing broadband service revenues for purposes of contributions to the USF, pursuant to this subsection.

(F) Nothing in this chapter shall be interpreted to limit or restrict any right that any local exchange carrier may have under federal law.

(G)(1) Competition exists for a particular service if, for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area, the service, its functional equivalent, or a substitute service is available from two or more providers. The commission must not:

(a) impose any requirements related to the terms, conditions, rates, or availability of broadband service; or

(b) otherwise regulate broadband service; however, in order to facilitate the continued deployment of broadband service by rural telephone companies as defined in 47 U.S.C. Section 153 (37), facilities utilized by rural telephone companies for the provision of broadband service must continue to be treated by the commission in the same manner as they were treated as of January 1, 2003, so as not to impact the provision or pricing of regulated telecommunications services by rural telephone companies. The commission shall not regulate a service for which competition exists if the market for that service is sufficiently competitive to protect the public interest. If the commission finds that competition exists for a particular service, but that service is not sufficiently competitive to protect the public interest, the commission must provide appropriate regulatory and pricing flexibility to all providers of the service.

(2) Nothing in subsection (G)(1) of this section is intended to affect the Public Service Commission's jurisdiction with respect to any service other than broadband service or to affect the application of access rates and charges to broadband providers or with respect to broadband services. Nothing in subsection (G)(1) of this section shall be construed to relieve an incumbent local exchange carrier, as defined by Section 251(h) of the federal Telecommunications Act of 1996, of its obligations pursuant to Sections 251 and 252 of the federal act or any Federal Communications Commission regulation relating to Sections 251 and 252 of the federal act to provide new entrant LEC's with unbundled access to network elements or interconnection including, but not limited to, loops, subloops, transmission facilities, and collocation space.

(3) The Office of Regulatory Staff must compile information in order to monitor the status of local telephone competition in this State. In compiling this information, the Office of Regulatory Staff must require all local exchange carriers, as defined in Section 58-9-10(12), to report to the Office of Regulatory Staff annually, the total number of access lines providing local exchange telecommunications services to an end user in this State. The Office of Regulatory Staff must also maintain a copy of all written complaints received regarding the impact broadband services may be having on the competitive local exchange market. This information must be compiled and made available prior to May fifteenth of each year.

(H) Any local exchange carrier, upon a showing of changed circumstances or that it is necessary or appropriate to realign rates with the costs of various telecommunications components, may petition the commission to reexamine any rates that have been capped pursuant to the provisions of this chapter and to set new price caps. A copy of the petition must be served upon the Office of Regulatory Staff.

(I) The incumbent LEC's subject to this section shall be authorized to meet the offerings of any local exchange carrier serving the same area by packaging services together, using volume discounts and term discounts, and by offering individual contracts for services, except as restricted by federal law. Individual contracts for services or contracts with other providers of telecommunications services shall not be filed with the commission, except as required by federal law, provided that telecommunications carriers shall provide access to such contracts to the commission as required.

(J) Subject to the requirements of applicable federal law, a small LEC may define the term "cost", as used within this section and where applicable to a small LEC, to include all embedded costs as well as a

reasonable contribution to universal local service, where applicable, until such time as these costs are recovered from other sources.

(K) Subject to federal law, if the commission finds that the resale of any service or unbundled capability, element, feature, or function in a small LEC area is in the public interest, then the small LEC shall not be required to offer its services at a price below its cost.

(L) Upon enactment of this section and the establishment of the Interim LEC Fund, as specified in subsection (M) of this section, the commission shall, subject to the requirements of federal law, require any electing incumbent LEC, other than an incumbent LEC operating under an alternative regulation plan approved by the commission before the effective date of this section, to immediately set its toll switched access rates at levels comparable to the toll switched access rate levels of the largest LEC operating within the State. To offset the adverse effect on the revenues of the incumbent LEC, the commission shall allow adjustment of other rates not to exceed statewide average rates, weighted by the number of access lines, and shall allow distributions from the Interim LEC Fund, as may be necessary to recover those revenues lost through the concurrent reduction of the intrastate switched access rates.

(M) The commission shall, not later than December 31, 1996, establish an Interim LEC Fund to be administered by the Office of Regulatory Staff or a designee. The Interim LEC Fund shall initially be funded by those entities receiving an access or interconnection rate reduction from LEC's pursuant to subsection (L) in proportion to the amount of the rate reduction. To the extent that affected LEC's are entitled to payments from the USF, the Interim LEC Fund must transition into the USF as outlined in Section 58-9-280(E) when funding for the USF is finalized and adequate to support the obligations of the Interim LEC Fund.

(N) The commission shall ensure that any requirements implemented under Section 58-9-280(C) are appropriate for the service territory of the small LEC and may implement such alternative requirements necessary to protect the public interest in such service area. Specifically, the commission shall ensure for small LEC's that telecommunications services that are available at retail to a specific category of subscribers only shall not be offered for resale to a different category of subscribers. Additionally, consistent with the federal Telecommunications Act of 1996, LEC's shall not be required to offer for resale services which they do not make available on a retail basis.

(O) If any provision or section of this chapter is held invalid or held not to apply to a particular local exchange carrier, such holding shall not affect the remaining provisions of this chapter or their application to any local exchange carrier to which they might apply.



Tennessee Regulatory Authority (TRA)

Mary W. Freeman, Chairman

[For Residents](#)

[For Visitors](#)

[For Business](#)

[For TRA Information](#)

[For TRA Divisions](#)

[For TRA Services](#)

[For Filing a Complaint](#)

[Energy Conservation](#)

[Just for Kids](#)

[Newsroom](#)

[TRA Site Map](#)

[Contact Us](#)

Related Topics

- [CLEC Application](#)
- [Reseller Application](#)
- [Water Application](#)
- [Waste Water Application](#)

CLEC and Reseller Application Information

COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC): Refers to any company that provides one or more of the IntraLATA services traditionally offered by the servicing LEC in its facilities based company that has been granted a certificate of convenience and necessity. A competing telecommunications service provider has the authority to provide a full range of telecommunications services either through their own facilities, with Unbundled Network Elements ("UNE's") through the ILEC, or through resale. In determining whether or not to award a certificate, the Authority considers whether granting the certificate will serve the present or future public convenience and necessity. The Authority will also consider the applicant's financial, technical and managerial ability to provide the applied for services, as well as the proposed rates and such other matters as the Authority finds relevant. The application should be submitted with a \$25 filing fee, the original documents, and thirteen copies.

RESELLER: "Resellers" is a common carrier of telephone services other than a facsimile. The term reseller includes, but is not limited to, operator service providers. Reseller provides intrastate telecommunication services in Tennessee without a certificate of convenience and necessity awarded by the Authority pursuant to state law and these rules. In determining whether or not to award a certificate, the Authority considers whether granting the certificate will serve the present or future public convenience and necessity. The Authority will also consider the applicant's financial, technical and managerial ability to provide the applied for services, as well as such other matters as the Authority finds relevant. The application should be submitted with a \$50 filing fee, the original documents, and one copy.

WATER: In determining whether or not to award a certificate, the Authority considers whether granting the certificate will serve the present or future public convenience and necessity. The Authority will also consider the applicant's financial, technical and managerial ability to provide the applied for services, as well as the proposed rates and such other matters as the Authority finds relevant. The application should be submitted with a \$25 filing fee, the original documents, and thirteen copies.

WASTE WATER: In determining whether or not to award a certificate, the Authority considers whether granting the certificate will serve the present or future public convenience and necessity. The Authority will also consider the applicant's financial, technical and managerial ability to provide the applied for services, as well as the proposed rates and such other matters as the Authority finds relevant. The application should be submitted with a \$25 filing fee, the original documents, and thirteen copies.

[TN.GOV Services](#)

[TN.GOV Directory](#)

[Web Policy](#)

[Accessibility](#)

[Award](#)

Tennessee Regulatory Authority

460 James Robertson Parkway

Nashville, TN 37243-0505

(800)

TENNESSEE REGULATORY AUTHORITY
TELECOMMUNICATIONS DIVISION
CLEC APPLICATION CONTENTS

Requirements for CLEC Application

Filing Information

Sample Application

Listing of Tennessee ILECs

Sample Sworn Pre-Filed Testimony

Sample Small and Minority-Owned Telecommunications Business
Participation Plan

Intralata Toll Dial Parity Plan Checklist

TENNESSEE REGULATORY AUTHORITY - TELECOMMUNICATIONS DIVISION
REQUIREMENTS FOR COMPETING TELECOMMUNICATION SERVICE
PROVIDER APPLICATION

Administrative Requirements

1. Demonstration of the ability and willingness to adhere to applicable TRA policies, rules and orders.
2. Corporate name of service provider
3. Corporate address of service provider
4. Organizational chart of corporate structure
5. Corporate Principal Officers (names and addresses)
6. Principal Officers in Tennessee (names and addresses if different from corporate)
7. Copy of articles of incorporation, partnership agreement or by-laws of the service provider.
8. Copy of license to do business in the state of Tennessee

All administrative requirements are in accordance with TRA Rule 1220-4-8-.04.

Managerial Requirements

Data regarding key management staff:

1. Experience: Management, Telecom, etc.

Technical Requirements

Proposed Network data:

1. Geographic area coverage: Nashville, Memphis, Knoxville, entire state, etc. Specify areas which will be excluded.
2. Services offered (if voice grade service is provided, will services be listed in TRA 1220-4-8-.04(3)(b) offered)?
3. Specify engineering expertise: Retained firm, staff electrical engineer, etc. Data regarding experience of key technical staff.
4. State if there are any special CPE (Customer Provided Equipment) requirements that would not be compatible with an incumbent carrier.
5. Repair and Maintenance
 - a. Ensure customer service will meet needs of customer
 - b. Phone number for repair and maintenance (customer service)
 - c. Address for written communication of repair and maintenance
 - d. Name and address of Tennessee contact person responsible for and knowledgeable about providers operations.

Financial Requirements

1. Estimated cost of network, switches and unbundled network elements (UNE's)
2. Most recent audited financial statement
 - a. Balance Sheet
 - b. Income Statement
 - c. Statement of Cash Flow
3. Projected financial statements (three (3) years)
 - a. Balance Sheet
 - b. Income Statement
 - c. Statement of Cash Flow
4. Capital Expenditures Budget (three years)
 - a. Equipment to be deployed
 - b. Cost of equipment
 - c. Sources for funding Tennessee network, equipment, UNE's: cash, loan commitments, vendor credits, letters of credit, etc. (complete detail).
5. TCA §65-4-125 amendment states that by September 1, 2000, all telecommunications service providers subject to the control and jurisdiction of the authority, except those owners or operators of public telephone service who pay annual inspection and supervision fees pursuant to TCA §65-4-301(b), or any telecommunications service provider that owns and operates equipment facilities in Tennessee with a value of more than five million (\$5,000,000), shall file with the authority a corporate surety bond or irrevocable letter of credit in the amount of twenty thousand dollars (\$20,000) to secure the payment of any monetary sanction imposed in any enforcement proceeding, brought under this title or the Consumer Telemarketing Protection Act of 1990, by or on behalf of the authority.
6. Will your company's equipment or facilities in Tennessee be in excess of \$5,000,000? If not, please provide a corporate surety bond or irrevocable letter of credit in the amount of twenty thousand dollars (\$20,000).

Small and Minority-Owned Telecommunications Business Participation Plan

1. TCA §65-5-112 provides applicant shall file a plan with the Authority along with application for certificate. Such shall contain entity's plan for purchasing goods and services from Small and Minority telecommunications businesses and information on programs, if any, to provide technical assistance to such businesses.

2. Typical Plan
 - a. Policy statement
 - b. Definitions from statute
 - c. Implementation of plan
 - d. Measures to contact such businesses in advisement of opportunities for bid of services.
 - e. Programs for technical assistance
3. The Plan should also set forth how it will be administered, the administrator's name, title, address and duties.

TRA Rules for Local Telecommunications Providers

Applicant should serve notice of its application on the eighteen (18) incumbent local exchange telephone companies in Tennessee with a statement regarding the company's intention of operating geographically. The TRA requires a written certificate of service from the applicant.

Toll Dialing Parity Plan for Applicants Providing Voice Grade Services

If the applicant does not intend to provide voice grade service, this does not apply. However, if the applicant chooses at some point in the future to provide voice grade service, they must file an appropriate toll dialing parity plan for TRA consideration at least 60 days prior to offering voice grade service. If applicant offers voice grade service, then a Toll Dialing Parity plan shall be filed with the application. Consistent with FCC Docket 96-98.

Numbering Issues

Please provide answers to the following questions concerning numbering within your proposed service areas.

1. What is your company's expected demand for NXXs per NPA within a year of approval of your application?
2. How many NXXs do you estimate that you will request from NANPA when you establish your service footprint?
3. When and in what NPA do you expect to establish your service footprint?
4. Will the company sequentially assign telephone numbers within NXXs?
5. What measures does the company intend to take to conserve Tennessee numbering resources?
6. When ordering new NXXs for growth, what percentage fill of an existing NXX does the company use to determine when a request for a new NXX will be initiated?

Tennessee Specific Operational Issues

Please provide answers to the following questions concerning Tennessee Specific Operational Issues.

1. How does the company intend to comply with TCA §65-21-114? In its description, please explain technically how the company will not bill for countywide calls within Tennessee.
2. Is the company aware of the Tennessee County Wide Calling database maintained by BellSouth and the procedures to enter your telephone numbers in the database?
3. Is your company aware of the local calling areas provided by the Incumbent Local Exchange Carriers in your proposed service areas?
4. Explain the procedures that will be implemented to assure that your customers will not be billed long distance charges for calls within the metro calling areas.
5. Please provide the name and telephone number of an employee of your company that will be responsible to work with the TRA on resolving customer complaints.
6. Does the company intend to telemarket its services in Tennessee? If yes, is the company aware of the telemarketing statues and regulations found in TCA §65-4-401 *et seq.* and Chapter 1220-4-11?

Miscellaneous

1. Sworn pre-filed testimony is needed for CLEC applications. This testimony should describe the services to be provided, the applicant's technical, managerial and financial abilities to provide the services and affirm that all information submitted is true and correct.
2. Tariff should be filed subsequent to applications approval and before commencing operations (tariffs filed with application are information only, not official filings).
3. Identify all states where certificated as telecommunications provider and the status of states certification is pending.
4. Applicants involvement in pertinent mergers, acquisitions, etc.?
5. Are customer deposits required? If so, amount required? Is the applicant bonded for the amount of the deposits?
6. Identify all complaints filed with state and federal regulatory agencies involving your company or affiliated entities. Identify the nature of the complaint, which governmental agency or office received the complaint, how was the complaint resolved?
7. Please state if applicant plans to offer services in areas served by any incumbent local exchange telephone company with fewer than 100,000 total access lines?
8. Such other information as the TRA may require.

Notes

1. With entry into the local exchange communications markets in Tennessee come basic obligations and responsibilities to serve the public interest. Therefore, all Competing Telecommunications Service Providers providing basic local exchange telephone service or its equivalent shall either directly or through arrangements with other carriers or companies: 1) Provide access to 911 and E911 emergency service; 2) Provide white page directory listings and directory assistance; 3) Provide consumer access to and support for the Tennessee Relay Center in the same manner as incumbent local exchange telephone companies; 4) Provide free blocking service for 900/976 type services in accordance with TRA policy; 5) Provide Lifeline and Link-up services to qualifying citizens of this state; 6) Provide educational discounts in existence as of June 6, 1995 TRA Rule 1220-4-8-.04.
2. If any of the information is not available or cannot be provided, please provide an explanation. Identify any information being replaced for the requested information.
3. Applicant must state intent to comply with TCA §65-4-201.
4. After public notice and hearing, the TRA shall grant a certificate of convenience and necessity to a Competing Local Telecommunications Service Provider if after examining the evidence presented, the TRA finds: 1) The applicant possesses sufficient managerial, financial and technical abilities to provide the applied for services; 2) The applicant has demonstrated that it will adhere to all applicable TRA policies, rules and orders. TRA Rule 1220-4-8-.04.
5. Certificates awarded to Competing Local Telecommunications Service Providers shall designate those incumbent local exchange companies, which serve those areas in which the competing provider intends to operate. If the competing provider wishes to expand into areas served by other incumbent providers, the competing provider must file a petition to modify the certificate. The Authority shall act upon that petition within sixty (60) days of filing. TRA Rule 1220-4-8-.04.
6. A Wireline Activity Report should be submitted to the TRA Telecommunications Division on a monthly basis for approved applicants once service commences. This provides the TRA with information regarding the status of local telephone competition in Tennessee.

SAMPLE APPLICATION

BEFORE THE TENNESSEE REGULATORY AUTHORITY

**IN THE MATTER OF THE APPLICATION
OF CLEC A, INC. FOR A CERTIFICATE
TO PROVIDE COMPETING LOCAL
TELECOMMUNICATION SERVICES**

**APPLICATION FOR CERTIFICATE TO PROVIDE
COMPETING LOCAL TELECOMMUNICATIONS SERVICES**

Pursuant to applicable Tennessee Statutes and the Rules and Regulations of the Tennessee Regulatory Authority and Section 253 of the Federal Telecommunications Act of 1996 (“Act”), CLEC A, Inc. (“CLEC A”) respectfully requests that the Tennessee Regulatory Authority (“TRA”) grant to CLEC A authority to provide competing local telecommunications services, including exchange access telecommunications services, within the State of Tennessee. CLEC A is willing and able to comply with all applicable rules and regulations in Tennessee pertaining to the provision of competing local telecommunications services. TCA 65-4-201

In support of its Application, CLEC A submits the following:

1. The full name and address of the Applicant is:

CLEC A, Inc.
7500 Lakewood Drive
Riverton, Wyoming 47600-0700
Telephone: (304) 777-1000

Questions regarding this application should be directed to:

Connie Lung
Technical Management
210 Park Avenue North
Rochester, New York 14646-0700
Telephone: (716) 888-3000
Facsimile: (716) 888-3001

SAMPLE APPLICATION

Contact name and address at the Company is:

Michael Black, Director - Regulatory Affairs
CLEC A, Inc.
7500 Lakewood Drive
Riverton, Wyoming 47600-0700
Telephone: (304) 777-1024
Facsimile: (304) 777-1030

2. Organizational Chart of Corporate Structure: Include any pertinent acquisition or merger information.

See **Exhibit A**

3. Corporate information:

CLEC A, Inc. was incorporated in the state of Wyoming on January 4, 1995. A copy of CLEC A's Articles of Incorporation and amendments are provided in **Exhibit B**. A copy of CLEC A's Authority to transact business in the State of Tennessee is provided in **Exhibit C**. The names and addresses of the principal corporate officers are in **Exhibit D**. There are no officers in Tennessee. The biographies of the principal officers and any other key technical staff are in **Exhibit E**.

4. CLEC A possesses the managerial, technical, and financial ability to provide local telecommunications service in the State of Tennessee as demonstrated below:

A. Financial Qualifications:

In support of its financial qualifications, CLEC A, Inc. submits the year-end 1999 SEC Form 8-K of its parent company, CLEC Communications Corporation (CCC) in **Exhibit F**. CCC is a diversified telecommunications company, serving more than 2 million customers (more than 1 million local access lines) throughout the United States. CCC's principal lines of business are long distance and local communications. The company's other lines of business include cellular, paging, and video and audio conferencing. Local exchange revenues grew 107.2% in 1999. Cash and cash equivalents provided from operations in 1999 exceeded \$443 million.

The company has a number of financing vehicles in place to ensure adequate liquidity in meeting its anticipated funding needs. The company has commercial paper programs totaling \$350 million, which are fully backed by committed revolving credit agreements.

CCC expects to improve revenues and decrease expenses throughout 2000 as it realizes revenues and operating efficiencies from the nationwide fiber optic network begun in late 1996. The fiber optic network was substantially complete at the end of 1998, connecting nearly 100 cities and encompassing more than 13,000 route miles, providing coast-to-coast SONET connectivity.

SAMPLE APPLICATION

Exhibit F summarizes the recent financial performance of the parent company, including the results of CLEC A. These include income statements, balance sheets, and statement of cash flows for year-end 1999. Also included are interim statements from September 2000 and projections for 2001, 2002, and 2003 including income statements, balance sheets and statement of cash flows. Thus, CLEC A asserts that it has the financial resources necessary to operate as a competitive local service provider in Tennessee.

Exhibit G is a capital expenditures budget for 2001, 2002, and 2003 indicating type of equipment to be purchased, cost, and sources for funding of projected capital expenditures.

CLEC A's financials nor their projected financials reflect any revenues or expenses associated with reciprocal compensation.

Corporate Surety Bond is provided as **Exhibit H**

B. Managerial Ability:

As shown in **Exhibit E** to this Application, CLEC A has the managerial expertise to successfully operate a telecommunications enterprise in Tennessee. As described in the attached biographical information, CLEC A's management team has extensive management and business experience in telecommunications.

C. Technical Qualifications:

CLEC A services will satisfy the minimum standards established by the TRA. The company will file and maintain tariffs in the manner prescribed by the TRA and will meet minimum basic local standards, including quality of service and billing standards required of all LEC'S regulated by the TRA. Applicant will not require customers to purchase CPE, which cannot be used with the Incumbent Local Exchange Carrier's systems. As noted in the biographies **Exhibit E** of the principal officers, there are two officers with engineering backgrounds and several years of telecommunications expertise. Thus, CLEC A is certainly technically qualified to provide local exchange service in Tennessee.

5. Proposed Service Area:

CLEC A is already authorized to provide telecommunications services in Illinois, California, Nevada, Georgia, and Florida. Additionally, CLEC A has pending applications for authority in Michigan, Oregon, and Wisconsin.

The applicant proposes to offer its services throughout the State of Tennessee with switches located in Nashville, Knoxville, Memphis, and Chattanooga. These areas are currently being served by BellSouth and Sprint/United, which are designated open to competition. CLEC A intends to offer this broad range of telecommunications services through the use of its own facilities, resold facilities, and through a combination of these provisioning methods. CLEC A

SAMPLE APPLICATION

anticipates collocating DSLAMS and other related electronic equipment in the central offices of the ILECS.

6. Types of Local Exchange Service to be provided:

CLEC A expects to offer a broad variety of local exchange services, primarily to business customers in Tennessee. CLEC A's initial line of local services will be comparable to that currently offered by the incumbent LECS. Initially CLEC A plans to offer basic access line service, PBX and DID Services, Optional Calling Features, Directory Assistance, Directory Services, and Operator Services, as well as all services required under Chapter 1220-4-8-.04 (3) (6) and (2).

7. Repair and Maintenance:

CLEC A understands the importance of effective customer service for local service customers. CLEC A has made arrangements for its customers to call the company at its toll-free customer service number 1-888-598-9956. In addition, customers may contact the company in writing at the headquarters address, as well as via email at www.cleca@aol.com. The toll free number will be printed on the customer's monthly billing statements. The Tennessee contact person knowledgeable about providers operations is Michael Black, Director - Regulatory Affairs reference (1.) above.

Grant of the Application will further the goals of the Tennessee Legislature and further the public interest by expanding the availability of competitive telecommunications services in the State of Tennessee. In addition, intrastate offering of these services is in the public interest because the services will provide Tennessee customers increased efficiencies and cost savings. Authorizing CLEC A to provide local exchange telecommunications services will enhance materially the telecommunications infrastructure in the State of Tennessee and will facilitate economic development.

In particular, the public will benefit both directly, through the use of the competitive services to be offered by CLEC A and indirectly, because CLEC A's presence in Tennessee will increase the incentives for other telecommunications providers to operate more efficiently, offer more innovative services, reduce their prices, and improve their quality of service. Grant of this Application will further enhance the service options available to Tennessee citizens for the reasons set forth above.

8. Small and Minority-Owned Telecommunications Business Participation Plan: (65-5-112): **Exhibit I**

9. Toll Dialing Parity Plan: **Exhibit J**

SAMPLE APPLICATION

10. Applicant has served notice of this application to the eighteen (18) incumbent local exchange telephone companies in Tennessee with a statement regarding the company's intention of operating geographically. See **Exhibit K** for the list.
11. Numbering Issues: Statement provided in **Exhibit L**
12. Tennessee Specific Operational Issues: Statements provided in **Exhibit M**
13. Miscellaneous:
 - A. Sworn Pre-filed testimony: **Exhibit N**
 - B. Applicant does not require customer deposits
 - C. As of now, CLEC A has not been subject to complaints in any of the states in which we are doing business.
 - D. A copy of our tariff is enclosed

CONCLUSION:

CLEC A respectfully requests that the TRA enter an order granting it a certificate of convenience and necessity to operate as a competing telecommunications service provider and authority to provide a full range of local exchange on a facilities-based and resale basis throughout the State of Tennessee in the service areas of Bell South, GTE and Sprint and any other ILEC that does not enjoy a rural exemption under Section 251(f) of the Telecommunications Act of 1996. For the reasons stated above, CLEC A's provision of these services would promote the public interest by providing high-quality service at competitive prices and by creating greater economic incentives for the development and improvement for all competing providers.

Respectfully submitted this ____ day of _____, _____.

Counsel for CLEC A, Inc.

SAMPLE NOTIFICATION OF SERVICE TO ILECS
(Copy to the Tennessee Regulatory Authority)

BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN THE MATTER OF THE APPLICATION)
OF CLEC A, INC. FOR A CERTIFICATE)
TO PROVIDE COMPETING LOCAL)
TELECOMMUNICATIONS SERVICES)

NOTICE OF FILING

TO: ALL INCUMBENT LOCAL EXCHANGE CARRIERS (ILECS)

PLEASE TAKE NOTICE, that in accordance with the Tennessee Regulatory Authority Rules for the Provision of Competitive Intrastate Telecommunications Services, you are hereby given notice that on _____, _____, CLEC A, Inc. filed an Application for a Certificate of Public Convenience and Necessity to Provide Competing Local Telecommunications Services.

This _____ day of _____, _____.

CLEC A, Inc.

BY: _____

Compliance Officer

**INCUMBENT LOCAL EXCHANGE CARRIERS (ILECs)
JUNE 30, 2006**

Company Name	Address	City-State	Zip	Phone
Ardmore Telephone Company, Inc.	PO Box 549	Ardmore, TN	38449	256-423-2131
BellSouth Telecommunications, Inc.	333 Commerce Street	Nashville, TN	37201	615-214-4066
CenturyTel of Adamsville	PO Box 4065	Monroe, LA	71211	318-362-1583
CenturyTel of Claiborne, Inc.	PO Box 4065	Monroe, LA	71211	318-362-1583
CenturyTel of Ooltewah-Collegedale, Inc.	PO Box 4065	Monroe, LA	71211	318-362-1583
Frontier Communications of Tennessee f/k/a Citizens Communications of Tennessee	300 Bland Street, P.O. Box 770	Bluefield, WV	24701	304-325-1216
Frontier Communications of the Volunteer State f/k/a Citizens Communications of the Volunteer State	300 Bland Street, P.O. Box 770	Bluefield, WV	24701	304-325-1216
Concord Telephone Exchange (TDS Telecom)	PO Box 22995	Knoxville, TN	37933	865-671-4753
Crockett Telephone Company, Inc. (TEC)	C/O TSI Processing Center PO Box 24207	Jackson, MS	39225	731-677-8181
Humphrey's County Telephone Company	PO Box 22995	Knoxville, TN	37933	865-671-4753
Loretto Telephone Company, Inc.	PO Box 130	Loretto, TN	38469	931-853-4351
Millington Telephone Company, Inc.	4880 Navy Road	Millington, TN	38053	901-872-3311
Peoples Telephone Company, Inc. (TEC)	C/O TSI Processing Center PO Box 24207	Jackson, MS	39225	931-289-4221
Embarq Communications, Inc.	14111 Capital Blvd.	Wake Forest, NC	27587	512-867-1071
Tellico Telephone Company (TDS Telecom)	PO Box 22995	Knoxville, TN	37933	865-671-4753
Tennessee Telephone Company (TDS Telecom)	PO Box 22995	Knoxville, TN	37933	865-671-4753
United Telephone Company	PO Box 38	Chapel Hill, TN	37034	931-364-2289
West Tennessee Telephone Company (TEC)	C/O TSI Processing Center PO Box 24207	Jackson, MS	39225	731-742-2211

SAMPLE SWORN PRE-FILED TESTIMONY

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

**APPLICATION OF CLEC A, INC.
FOR A CERTIFICATE TO PROVIDE
COMPETING LOCAL TELEPHONE
SERVICES**

PRE-FILED TESTIMONY OF MICHAEL BLACK

**SAMPLE INFORMATION THAT MUST BE INCLUDED IN A SWORN
PRE-FILED TESTIMONY**

I, Michael Black, do hereby testify as follows in support of the application of CLEC A, Inc. (CLEC A) for a Certificate of convenience and necessity as a competing telecommunications services provider to provide telecommunication services throughout the State of Tennessee.

Q: Please state your full name, business address, and position.

Q: Please briefly describe your duties.

Q: Please describe your business experience and educational background.

Q: Are all statements in CLEC A, Inc.'s application true and correct to the best of your knowledge, information and belief?

Q: Please describe the current corporate structure of CLEC A, Inc

Q: Does CLEC A, Inc. possess the requisite managerial, financial, and technical abilities to provide the services for which it has applied for authority?

Q: Please describe CLEC A, Inc.'s financial qualifications.

Q: Please describe CLEC A, Inc.'s managerial and technical qualifications.

Q: What services will CLEC A, Inc. offer?

Q: Will CLEC A, Inc. offer service to all consumers within its service area?

SAMPLE SWORN PRE-FILED TESTIMONY

Q: Does CLEC A, Inc. plan to offer local exchange telecommunications services in areas served by any incumbent local exchange telephone company with fewer than 100,000 total access lines?

Q: Will the granting of a certificate of convenience and necessity to CLEC A, Inc. serve the public interest?

Q: Does CLEC A, Inc. intend to comply with all TRA rules, statues, and orders pertaining to the provision of telecommunications services in Tennessee, including those for disconnection and reconnection of service?

Q: Has any state ever denied CLEC A, Inc. or one of its affiliates authorization to provide intrastate service?

Q: Has any state ever revoked the certification of CLEC A, Inc. or one of its affiliates?

Q: Has CLEC A, Inc. or one of its affiliates ever been investigated or sanctioned by any regulatory authority for service or billing irregularities?

Q: Who is knowledgeable about CLEC A, Inc.'s operations and will serve as CLEC A, Inc.'s regulatory and customer service contact?

Q: Please explain in detail CLEC A, Inc.'s proposed procedures for responding to information requests from the TRA and its staff.

Q: Does this conclude your testimony?

I swear that the foregoing testimony is true and correct to the best of my knowledge.

Michael Black
Director Regulatory Affairs
CLEC A, Inc.

Respectfully submitted this ____ day of _____, _____.

Notary Public

State of Wyoming

County of _____

My commission expires _____

**SAMPLE SMALL AND MINORITY-OWNED TELECOMMUNICATIONS
BUSINESS PARTICIPATION PLAN**

CLEC A, INC.

**SMALL AND MINORITY-OWNED TELECOMMUNICATIONS
BUSINESS PARTICIPATION PLAN**

SAMPLE SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN

Pursuant to T.C.A. §65-5-112, as amended, CLEC A, Inc. (“CLEC A”) submits this small and minority-owned Telecommunications business participation plan (the “Plan”) along with its Application for a Certificate of Public Convenience and Necessity to provide competing intrastate and local exchange services in Tennessee.

I. PURPOSE

The purpose of §65-5-112 is to provide opportunities for small and minority-owned businesses to provide goods and services to Telecommunications service providers. CLEC A is committed to the goals of §65-5-112 and to taking steps to support the participation of small and minority-owned Telecommunications businesses in the Telecommunications industry. CLEC A will endeavor to provide opportunities for small and minority-owned Telecommunications businesses to compete for contracts and subcontracts for goods and services. As part of its procurement process, CLEC A will make efforts to identify and inform minority-owned and small businesses that are qualified and capable of providing goods and services to CLEC A of such opportunities. CLEC A’s representatives have already contacted the Department of Economic and Community Development, the administrator of the small and minority-owned Telecommunications assistance program, to obtain a list of qualified vendors. Moreover, CLEC A will seek to increase awareness of such opportunities so that companies not otherwise identified will have sufficient information to participate in the procurement process.

**SAMPLE SMALL AND MINORITY-OWNED TELECOMMUNICATIONS
BUSINESS PARTICIPATION PLAN**

II. DEFINITIONS

As defined in §65-5-112.

Minority-Owned Business. Minority-owned business shall mean a business which is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls daily operations of such business, and who is impeded from normal entry into the economic mainstream because of race, religion, sex or national origin and such business has annual gross receipts of less than four million dollars (\$4,000,000).

Small Business. Small Business shall mean a business with annual gross receipts of less than four million dollars (\$4,000,000).

III. ADMINISTRATION

CLEC A's Plan will be overseen and administered by the individual named below, hereinafter referred to as the Administrator, who will be responsible for carrying out and promoting CLEC A's full efforts to provide equal opportunities for small and minority-owned businesses. The Administrator of the Plan will be:

Norman Trace
CLEC A, Inc.
7500 Lakewood Drive
Riverton, Wyoming 47600-0700
Telephone: 304-777-1026
Facsimile: 304-777-1030

The Administrator's responsibilities will include:

- (1) Maintaining an updated Plan in full compliance with §65-5-112 and the rules and orders of the Tennessee Regulatory Authority.

**SAMPLE SMALL AND MINORITY-OWNED TELECOMMUNICATIONS
BUSINESS PARTICIPATION PLAN**

- (2) Establishing and developing policies and procedures necessary for the successful implementation of the Plan.
- (3) Preparing and submitting such forms as may be required by the Tennessee Regulatory Authority, including the filing of required annual updates.
- (4) Serving as the primary liaison to and cooperate with the Tennessee Regulatory Authority, other agencies of the State of Tennessee, and small and minority-owned businesses to locate and use qualified small and minority-owned businesses as defined in §65-5-112.
- (5) Searching for and developing opportunities to use small and minority-owned businesses and encouraging such businesses to participate in and bid on contracts and subcontracts.
- (6) Providing records and reports and cooperating in any authorized surveys as required by the Tennessee Regulatory Authority.
- (7) Establishing a record-keeping system to track qualified small and minority-owned businesses and efforts to use such businesses.
- (8) Providing information and educational activities to persons within CLEC A and training such persons to seek out, encourage, and promote the use of small and minority-owned businesses.

In performance of these duties, the Administrator will utilize a number of resources, including:

- Chambers of Commerce
- The Tennessee Department of Economic and Community Development
- The United States Department of Commerce
 - Small Business Administration
 - Office of Minority Business
- The National Minority Supplier Development Counsel
- The National Association of Women Business Owners
- The National Association of Minority Contractors
- Historically Black Colleges, Universities, and Minority Institutions

The efforts to promote and ensure equal opportunities for small and minority-owned businesses are primarily spelled out in the Administrator’s duties above. Additional efforts to provide opportunities to small and minority-owned businesses will include offering, where

**SAMPLE SMALL AND MINORITY-OWNED TELECOMMUNICATIONS
BUSINESS PARTICIPATION PLAN**

appropriate and feasible, small and minority-owned businesses assistance with technical, insurance, bonding, licensing, production, and deadline requirements.

IV. RECORDS AND COMPLIANCE REPORTS

CLEC A will maintain records of qualified small and minority-owned business and efforts to use the goods and services of such businesses. In addition, CLEC A will maintain records of educational and training activities conducted or attended and of the internal procurement procedures adopted to support this plan.

CLEC A will submit records and reports required by the Tennessee Regulatory Authority concerning the Plan. Moreover, CLEC A will cooperate fully with any surveys and studies required by the Tennessee Regulatory Authority.

CLEC A, Inc.

By: _____
Norman Trace
Vice President

Dated: _____, _____.

INTRALATA TOLL DIALING PARITY PLAN CHECKLIST

THE PLAN SHOULD:

1. Include the proposed implementation date. (FCC ORDER 96-333, 38)
2. Include a list of exchanges in which intralata toll dialing parity will be provided. (FCC ORDER 96-333, 38)
3. Include a method to be used to enable new and existing customers to select alternate providers of telephone toll service. (FCC ORDER 96-333, 38)
4. Accomplish intralata toll dialing parity by a means other than automatically assigning toll customers to itself or any other carrier. (FCC ORDER 96-333, 41 & 81)
5. State the PIC method to be used (2-PIC, MULTIPIC, etc.-2 PIC minimum) (FCC ORDER 96-333, 49)
6. Include customer education procedures (FCC ORDER 96-333, 80)
7. Identify the lata with which it is proposed to associate. (FCC ORDER 96-333, 38)
8. State whether a PIC change charge waiver period is proposed and for how long. (Tennessee Regulatory Authority)
9. Include anti-slamming procedures. (Tennessee Regulatory Authority)
10. Include statements concerning nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listings. (If applicable)
11. Include a statement that the carrier will comply with all rules of the FCC and the TRA.

**RULES
OF
TENNESSEE REGULATORY AUTHORITY**

**CHAPTER 1220-4-8
REGULATIONS FOR LOCAL TELECOMMUNICATIONS PROVIDERS**

TABLE OF CONTENTS

1220-4-8-.01	Definitions	1220-4-8-.07	Tariff and Pricing Requirements for Competing Local Telecommunications service Providers - Local Service
1220-4-8-.02	Certification Policy and Requirement		
1220-4-8-.03	General Application Requirement Procedures for All Competing Local Telecommunications Service Providers	1220-4-8-.08	Reserved
1220-4-8-.04	Application and Certification Requirements for Competing Telecommunications Service Providers - Local Service	1220-4-8-.09	Consumer Complaints and Violations of State Law And Authority Rules
1220-4-8-.05	Abandonment or Transfer of a Certificate	1220-4-8-.10	Reserved
1220-4-8-.06	Inspection Fees for Competing Telecommunications Service Providers	1220-4-8-.11	Reserved
		1220-4-8-.12	Reserved
		1220-4-8-.13	Enhanced 911 Service Requirements after Deregulation

1220-4-80-.01 DEFINITIONS.

- (1) In the interpretation of the rules in this Chapter, the following definitions shall apply:
 - (a) Authority - The Tennessee Regulatory Authority.
 - (b) Automatic Emergency Communications District (ECD) Routing - E-911 call routing to the proper Tandem Central Office where the End Office has subscribers in more than one ECD and the Incumbent Emergency 911 Service provider has different Tandem Central offices serving those ECDs.
 - (c) Basic Local Exchange Service - The telecommunications services comprised of an access line, dial tone, touch tone, and usage provided to the premises of residential customers or business customers for the provision of high quality, two-way switched voice, or data transmission over voice grade facilities, within a local calling area, Lifeline, Link-up Tennessee, 911 Emergency Services, and educational discounts existing on the effective date of Chapter 408 Public Acts of 1995. Said service shall be provided at the same level of quality as was provided on the effective date of Public Chapter 408. This shall include recurring and nonrecurring charges.
 - (d) Bona Fide Request - A request to an Incumbent Local Exchange Telephone Company or a Competing Local Telecommunications Service Provider that demonstrates a good faith showing by the requesting provider that it intends to purchase the services within a reasonable time.
 - (e) Common Channel Signaling - A method of digitally transmitting call set-up and network control data over a special network fully separate from the public switched network that carries the actual call.
 - (f) Competing Telecommunications Service Provider - A company, entity, or an individual that offers or provides any two-way communications service, telephone service, paging service, or communications service similar to such services and telegraph services certificated for such services after June 6, 1995.
 - (g) Emergency Communications District (ECD) - Any Emergency Communications District created pursuant to the provisions of T.C.A. 7-86-101, *et seq.*
 - (h) Enhanced 911/911 Service - An emergency service available to the general public and activated by dialing the digits 911 on the telephone.

(Rule 1220-4-8-.01, continued)

- (i) Gross Domestic Product Price Index (GDP-PI) - The final estimate of the chain-weighted Gross Domestic Product Price Index as prepared by the U.S. Department of Commerce and published in the Survey of Current Business or its successor.
- (j) Incumbent Enhanced 911 Emergency Service Provider - A public utility offering Enhanced 911 Service on June 6, 1995 to any ECD or other governing authority referred to in T.C.A. 7-86-101, *et seq.*
- (k) Interconnection - Refers to telecommunication services, including intrastate switched access that allows a Telecommunications Service Provider to interconnect with the networks of other Telecommunications Service Providers.
- (l) Interexchange Access Service - A telecommunications service to provide access between end users and an Interexchange carrier and/or private line services between end users.
- (m) Interexchange Carrier - A facilities based telecommunications service provider of intrastate, interLATA telecommunications services.
- (n) IntraLATA Long Distance Service - a long distance service within any LATA.
- (o) Local Calling Area - The geographic area encompassing one (1) or more local exchanges in maps, tariffs, and rate schedules approved by the Authority, including the expanded service area as that term is used in such maps, tariffs, and rate schedules within which toll charges do not apply.
- (p) Local Exchange - A switching center serving a 10,000 line grouping or less that can be uniquely identified by an area code and the first three (3) digits of a telephone number (NXX code).
- (q) Incumbent Local Exchange Telephone Company - A public utility offering and providing basic local exchange service pursuant to tariffs approved by the Authority prior to June 6, 1995, or as designated by the Federal Communications Commission pursuant to 47 U.S.C. §251(h)(2).
- (r) Local Service - Any service provided within a local calling area.
- (s) Local Telecommunications Service Providers - All providers of local telecommunications services certificated by the Authority after June 6, 1995 and all Incumbent Local Exchange Telephone Companies serving more than 100,000 access lines or which are otherwise subject to this rule chapter.
- (t) Long Run Incremental Cost - The additional forward-looking cost the company would incur in offering an existing or new service, group of services or basic network function for the current or reasonably expected level of service demand, excluding shared expenses and overheads not directly attributable to the service or function.
- (u) Non-basic Services - Telecommunications services which are not defined as basic local exchange telephone services and which are not otherwise exempted from this category by the provisions of T.C.A. §65-5-108. Rates for this service shall include recurring and nonrecurring charges.
- (v) Number Portability - The technical capability to allow a customer to retain his local number, which includes:
 - 1. service provider portability - the ability to retain one's telephone number within a local telecommunications provider's service area when changing service providers;

(Rule 1220-4-8-.01, continued)

2. geographic portability - the ability to take one's telephone number when moving to a different permanent location within a local calling area (business or residential);
 3. service portability - the ability to retain one's telephone number when changing service types, an example would be when a customer changes from voice grade telephone service to Integrated Services Digital Network (ISDN) and retains the same telephone number; and
 4. E911 service portability - the ability to provide and display subscriber numbers (old number and new number) and a designation that this is a remote call forwarding (RCF) call in the ALI database, where RCF is used to accomplish number portability.
- (w) Price List - The prices, or a range of prices, charged for services provided by a local telecommunications service provider on file with the Authority.
- (x) Price Regulation - A method for setting affordable prices through the use of a combination of caps, floors, and indexes or adjustment mechanisms, other than methods which use earnings, rate base and rate of return regulation.
- (y) Rate - The price of a telecommunication service. Whenever the term price is used in this rule chapter it shall be synonymous with rate and vice versa.
- (z) Shared Tenant Service Provider - A basic local exchange service subscriber who shares or resells basic local exchange service, generally occurring under a single owner or common development with a single name identity.
- (aa) Stand-alone Cost - Those costs that an efficient firm would incur, using least-cost technology, to produce a service or group of services by themselves without reference to the rest of the services produced by the firm.
- (bb) Tariff - The schedule, or a range of prices and regulations for a particular service, which is filed with the Authority and serves as the official published list of charges, terms and conditions governing the provision of the service or facility. Tariffs function in lieu of a contract between an end user and a service provider.
- (cc) Tariff or Price Filing Date - The date on which the new tariff filing or price filing is first published in the Authority's weekly tariff sheet.
- (dd) Telecommunications Resale Service - A service provided by a Telecommunications Service Provider, including Shared Tenant Services Providers, that purchases telecommunications services or functions from another certificated provider for resale to the public.
- (ee) Telecommunications Services - A generic term describing two-way communications services transmitted over communications facilities. These services include voice, data, and video transmissions. These services exclude the transmission of one-way or two-way television and radio communications over traditional cable television and broadcast facilities provided exclusively between TV or radio subscribers and the TV or radio service provider.
- (ff) Universal Service - The provision of affordable residential basic local exchange telephone service and carrier-of- last-resort obligations.
- (gg) Usage Based Service - A service for which the rate applies to each additional increment of service usage. Usage based service does not include a message-rated service or any local

(Rule 1220-4-8-.01, continued)

exchange service for which usage rates do not apply after a maximum dollar amount or level of usage is consumed.

Authority: T.C.A. §§65-2-102, 65-3-105, 65-4-101, 65-4-104, 65-5-107, 65-5-108, and Chapter 408 of Public Acts of 1995. **Administrative History:** Original rule filed April 15, 1998; effective June 15, 1998. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-8-.02 CERTIFICATION POLICY AND REQUIREMENT.

- (1) The purpose of this rule chapter is to provide specific rules for the Authority to use in certifying additional service providers in local telecommunications markets.
- (2) It is the Authority’s policy to ensure that all consumers receive high quality telecommunications services, regardless of the service provider they select and that such providers shall be supervised by the Authority.
- (3) Every provider of telecommunications service, unless otherwise exempted by state or federal law, shall obtain a certificate pursuant to application under this rule before providing local telecommunications service, and shall not provide local telecommunications service without a certificate to provide such service. Any certificate or other Authority approved authority to provide local telecommunications service existing on the effective date of this rule shall remain in effect unless otherwise revoked by the Authority.

Authority: T.C.A. §§65-2-102 and 65-4-201. **Administrative History:** Original rule filed April 15, 1998, effective June 15, 1998. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-8-.03 GENERAL APPLICATION REQUIREMENT PROCEDURES FOR ALL COMPETING TELECOMMUNICATIONS SERVICE PROVIDERS - LOCAL SERVICE.

- (1) Any individual company or entity applying for a certificate of convenience and necessity under this rule chapter to provide competing local telecommunications services shall file a petition in accordance with the provisions of T.C.A. §65-2-103 with the Chair of the Authority.
- (2) Falsification or failure to disclose any required information in the petition for certification may be grounds for denial or revocation of any certificate.

Authority: T.C.A. §§65-2-102 and 65-4-201. **Administrative History:** Original rule filed April 15, 1998, effective June 15, 1998. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-8-.04 APPLICATION AND CERTIFICATION REQUIREMENTS FOR COMPETING TELECOMMUNICATIONS SERVICE PROVIDERS - LOCAL SERVICE.

- (1) Petitions to obtain certificates to provide competing local telecommunication services shall include the following:
 - (a) demonstration of the ability and willingness to adhere to all applicable Authority policies, rules and orders;
 - (b) documentation of managerial, financial and technical ability to provide such services;

(Rule 1220-4-8-.04, continued)

- (c) the name of the service provider, the address of the corporate headquarters, and the names and addresses of the service provider's principle corporate officers;
 - (d) if different than above, the names and addresses of all officers and corporate officers located in Tennessee and the name(s) and address(es) of employee(s) responsible for Tennessee operations;
 - (e) information about the structure of the business organization and, where applicable, a copy of any articles of incorporation, partnership agreement or by-laws of the service provider, and a copy of any license to do business in Tennessee;
 - (f) repair and maintenance information including the name, address and telephone number of a Tennessee contact person responsible for and knowledgeable about the provider's operations;
 - (g) a list of other states where the provider is authorized to operate and a list of those states which have denied any requested authority;
 - (h) such other information as the Authority may require;
 - (i) a description of the category and types of services to be offered, the facilities and arrangements to be made available to end users and/or carriers, where applicable, and the geographic areas in which the services shall be offered.
- (2) After public notice and hearing, the Authority shall grant a certificate of convenience and necessity to a Competing Local Telecommunications Service Provider if, after examining the evidence presented, the Authority finds:
- (a) the applicant possesses sufficient managerial, financial and technical abilities to provide the applied for services;
 - (b) the applicant has demonstrated that it will adhere to all applicable Authority policies, rules and orders.
- (3) Conditions of Certification
- (a) Certificates awarded to Competing Local Telecommunications Service Providers shall designate those incumbent local exchange companies which serve those areas in which the competing provider intends to operate. If the competing provider wishes to expand into areas served by other incumbent providers, the competing provider must file a petition to modify the certificate. The Authority shall act upon that petition within sixty (60) days of filing.
 - (b) With entry into the local exchange communications markets in Tennessee comes basic obligations and responsibilities to serve the public interest. Therefore, all Competing Telecommunications Service Providers providing basic local exchange telephone service or its equivalent shall either directly or through arrangements with other carriers or companies:
 - 1. Provide access to 911 and E 911 emergency service.
 - 2. Provide white page directory listings and directory assistance.
 - 3. Provide consumer access to and support for the Tennessee Relay Center in the same manner as incumbent local exchange telephone companies.
 - 4. Provide free blocking service for 900, 976 type services in accordance with Authority policy.

(Rule 1220-4-8-.04, continued)

5. Provide Lifeline and Link-up services to qualifying citizens of this state.
 6. Provide educational discounts in existence as of June 6, 1995.
- (c) All telecommunications service providers certified pursuant to this rule shall at a minimum be required to:
1. Provide support for universal service in a manner determined by the Authority. This requirement shall not be construed as prohibiting the granting of a certificate before the universal service issues are determined by the Authority.
 2. Provide interconnection with other certificated carriers or Authority authorized carriers on a nondiscriminatory basis under reasonable terms and conditions.
 3. Comply with Authority basic service standards as defined in any applicable rules and decisions of the Authority;.
 4. Provide equal access to authorized inter-and intraLATA long distance providers, unless otherwise exempted by the Authority.

Authority: T.C.A. §§65-2-102, 65-4-201, 65-4-204, 65-5-101, 65-5-102, 65-5-103, 65-4-104, 65-4-106, 65-5-107, and Chapter 408 of Public Acts of 1995. **Administrative History:** Original rule filed April 15, 1998, effective June 15, 1998. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-8-.05 ABANDONMENT OR TRANSFER OF A CERTIFICATE.

- (1) Abandonment of a certificate. Any Local Telecommunications Service Provider, except a telecommunications service provider with carrier of last resort obligations, which plans to discontinue providing all local services under its certificate in any or all local calling areas shall file formal notification with the Authority and all its affected customers by direct mail ninety (90) days in advance of the last anticipated day of service.
- (2) Transfer of a certificate. The transfer of a certificate or any services by any Local Telecommunications Services Provider shall be approved by the Authority so long as the new provider meets the requirements of T.C.A. §65-4-201(c). The Authority shall render a decision regarding the transfer of the certificate, whether in whole or in part, within sixty (60) days of the filing date of the petition to transfer. If the Authority determines, based on the information presented, that the recipient is financially and technically capable of providing the service, and will adhere to all applicable Authority rules, policies and orders, the Authority shall approve the transfer of the certificate.

Authority: T.C.A. §§65-4-113, 65-4-114, and 65-4-201. **Administrative History:** Original rule filed April 15, 1998, effective June 15, 1998. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003.

1220-4-8-.06 INSPECTION FEES FOR COMPETING TELECOMMUNICATIONS SERVICE PROVIDERS.

- (1) All Competing Telecommunications Service Providers shall be subject to the provisions of T.C.A., Title 65, Chapter 4, Part 3, and shall pay any fees required by that part.

Authority: T.C.A. §65-4-301. Administrative History: Original rule filed April 15, 1998, effective June 15, 1998.

1220-4-8-.07 TARIFF AND PRICING REQUIREMENTS FOR COMPETING LOCAL TELECOMMUNICATIONS SERVICE PROVIDERS LOCAL SERVICE.

- (1) Tariff Requirements
 - (a) Competing Telecommunications Service Providers providing local service unless otherwise exempted by the Authority from these requirements at the time of certification, shall be required to comply with the following:
 1. File informational tariffs describing all offered services;
 2. file lists of individual service prices or a price range with the highest price listed to be no greater than twenty-five percent (25%) above the lowest price in the range for all services offered;
 3. file tariffs for any interconnection arrangements entered into as described in Rule 1220-4-8-.10.
 - (b) Any tariff filed under this rule sub-section shall constitute notice to customers of the terms and conditions under which the services shall be provided, and shall be binding upon the providers subject to this rule and their customers. Any such tariff shall be nondiscriminatory.
 - (c) Tariffs and price lists for new services shall be effective on the tariff or price filing date as defined in this rule chapter.
- (2) Pricing
 - (a) A price may be decreased at any time, if such decrease is within the range of prices for a service on file with the Authority.
 - (b) Price increases for all local services, that are within the range of prices for a service on file with the Authority shall become effective thirty (30) days following notification by direct mail to affected customers or by publication of a notice for the increase in a newspaper of general circulation in the affected service area. New price increases that are not within such range shall not become effective until a new informational tariff is filed with the Authority.
 - (c) Withdrawal of a non-basic local service offering shall be permitted on thirty (30) days notice to the Authority, and on thirty (30) days direct or public notification to customers.
 - (d) Withdrawal of a basic local service offering may be permitted after ninety (90) days prior notice to the Authority, and after sixty (60) days prior notice to individual customers by direct mail or by publication of a notice in a newspaper of general circulation in the affected service area. Any such withdrawal shall be approved by the Authority before implementation.
- (3) Special Contract Provisions
 - (a) Special contracts and any tariffs for interconnection services shall comply with the provisions of Rule 1220-4-8-.10.

(Rule 1220-4-8-.07, continued)

- (b) Special contracts with end users which are not unduly discriminatory shall be permitted. However, the Authority shall be notified of the existence of the contract upon execution, and shall be provided with a written summary of the contract provisions including a description of the services provided. The Authority shall make a copy of the summary available for inspection by any interested party. A copy of the contract shall be made available for Authority review upon request.
- (c) Any special pricing package, contract, or discount shall be made available to any similarly situated customer satisfying the required terms and conditions of the special agreement upon request.

Authority: T.C.A. §§65-2-102, 65-5-101, 65-5-102, 65-5-103, 65-5-104, and Chapter 408 of Public Acts of 1995.
Administrative History: Original rule filed April 15, 1998, effective June 15, 1998. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-8-.08 RESERVED.

1220-4-8-.09 CONSUMER COMPLAINTS, ANTI-COMPETITIVE COMPLAINTS, AND VIOLATIONS OF APPLICABLE STATE LAW AND AUTHORITY RULES.

- (1) All Competing Telecommunications Service Providers shall comply with Authority Rule 1220-4-2-.09, all applicable statutes, and Authority policies regarding customer complaints and provisions of this rule.
- (2) Anti-competitive provisions.
 - (a) Upon filing of any increase in a non-basic rate or establishment of a new non-basic service by a Incumbent Local Exchange Telephone Company, any interested party may file a complaint with the Authority alleging that this rate is priced below its long run incremental cost in violation of the provisions of these rules. The Authority shall require the Incumbent Local Exchange Telephone Company to file cost support justifying the challenged rate with an opportunity for the party challenging the rate to demonstrate that it violates the price floor requirements. The Authority shall allow the rate to go into effect but shall resolve the complaint within thirty (30) days of its receipt, and may order the adjustment of the rate if found to be in violation of price floor requirements and thus anti-competitive.
 - (b) Upon the complaint of any interested party that any telecommunications service provider has violated any of the anti-competitive or discriminatory rate prohibitions found in applicable rules or statutes, the Authority shall investigate the complaint and may convene a contested case proceeding if such complaint is found to have merit. However, the complaining party must allege with specificity the action by the telecommunications service provider that appears to be in violation of said prohibitions or the complaint is subject to dismissal by the Authority.
 - (c) All Incumbent Local Exchange Telephone Companies subject to price cap regulation shall be required to do the following:
 - 1. Utilize consistent cost methods so that it does not apply different unit costs to network capabilities that are used to furnish monopoly services than it applies to those used to furnish competitive services.
 - 2. Impute to its competing service(s) the tariffed rates for essential elements utilized by Competing Telecommunications Service Providers plus the total long run incremental

(Rule 1220-4-8-.09, continued)

costs of all other elements composing the Incumbent Local Exchange Telephone Company's competing service(s).

3. Adhere to all other anti-competitive provisions found in this Rule Chapter pertaining to the provision of nondiscriminatory interconnection with other providers under reasonable terms and conditions, the compliance with price floor and cost imputation restrictions on the pricing of competitive services, and compliance with applicable tariff and special contract provisions.
 - (d) Any party, service provider, or consumer may file a discrimination claim with the Authority regarding any service or rate. Any similarly situated customer (individual or other provider) who is denied upon request the same contractual provisions or rate or service offered to other customers may file a complaint with the Authority for appropriate resolution. Such resolution may include imposition of a fine for willful violations.
- (3) Violation of state law or the Authority's rules applicable to providers certificated pursuant to this Rule Chapter may result in the imposition of fines or the revocation of the provider's certificate in accordance with the following procedure.
 - (a) If the Authority has cause to believe that any provider certificated pursuant to this rule chapter is in violation of an Authority rule, applicable decision or state law, it shall notify the provider of the alleged violation and include copies of any documents supporting the alleged violation.
 - (b) The provider shall have thirty (30) days from receipt of the notice of violation to provide a written response to the Authority.
 - (c) If after receipt and review of the response it is found to be unsatisfactory, the Authority may issue a Show Cause Order pursuant to T.C.A. §65-2-106.
 - (d) After hearing and upon determination that a provider is in violation of a statute, Authority rules or applicable decisions, the Authority may impose fines, revoke the provider's certificate or take any other appropriate action as authorized by law.

Authority: T.C.A. §§65-4-114, 65-4-115, 65-4-117, 65-2-106, 65-3-105, and 65-4-120. **Administrative History:** Original rule filed April 15, 1998; effective June 15, 1998. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.

1220-4-8-.10 RESERVED.

1220-4-8-.11 RESERVED.

1220-4-8-.12 RESERVED.

1220-4-8-.13 ENHANCED 911 SERVICE REQUIREMENTS AFTER DEREGULATION.

- (1) The purpose of this rule chapter is to provide specific rules for Incumbent Local Telecommunications Service Providers and Competing Local Telecommunications Service Providers to ensure the continuation of reliable and affordable Enhanced 911 Emergency Service after deregulation occurs as provided for in T.C.A. §7-86-101, *et seq.*
- (2) For a period of four (4) years from June 6, 1995, the date of the Act, within each Emergency Communications District, the Incumbent Enhanced 911 Emergency Service Provider shall continue to offer Enhanced 911 service and shall:

(Rule 1220-4-8-.13, continued)

- (a) Provide an Enhanced 911 Tandem Central Office to:
 - 1. Provide Enhanced 911 trunks to each Public Service Answering Point (PSAP).
 - 2. Deliver Automatic Number Identification (ANI) with each 911 call.
 - 3. Provide Selective Routing to route 911 calls to the proper PSAP.
 - (b) Provide Automatic ECD Routing.
 - (c) Provide a Data Management System (DMS) to provide Automatic Location Identification (ALI) with each Enhanced 911 call.
 - (d) Offer Interconnection Agreements to all other Incumbent Local Telecommunications Service Providers, Competing Local Telecommunications Service Providers and Shared Tenant Service Providers which will provide for:
 - 1. The connection of dedicated 911 Centralized Automatic Message Accounting (CAMA) trunks to the Enhanced 911 Tandem Central office.
 - 2. The acceptance of Automatic Number Identification (ANI) associated with the Enhanced 911 call.
 - 3. The acceptance of the daily update of Automatic Location Identification (ALI) database information by the DMS.
 - 4. The assurance of confidentiality in the use of the ALI data-base information so provided and a stipulation that such data-base will be restricted to providing emergency response to in-progress Enhanced 911 calls.
 - 5. Fair and equitable agreements with the other Service Providers referenced above based on the Incumbent Enhanced 911 Service Provider billing the ECD for its portion of the Enhanced 911 service as provided for in the tariffs, and the other service providers billing the ECD for their portions of the Enhanced 911 service.
 - (e) Provide an Enhanced 911 trouble-reporting center for the reporting of all Enhanced 911 repair, maintenance, data-base and technical problems by an ECD and be responsible for determining and dispatching the trouble report to the appropriate Local Service Provider for correction.
 - (f) Maintain Enhanced Universal Emergency Number Service (E911) tariffs at the rate on file with the Authority consistent with price regulations and the requirements of the Telecommunications Reform Act of 1995.
 - (g) Bill, collect and remit the Enhanced 911 fees associated with its subscribers (including non-facilities based resellers) to the appropriate Emergency Communications District unless authorized by an Emergency Communications District to do otherwise on a customer specific basis; and to provide a mutually agreeable means of auditing the subscriber base by number and type by the Emergency Communications District auditor.
- (3) All other Incumbent Local Telecommunications Service Providers, Competing Local Telecommunications Service Providers and Shared Tenant Service Providers providing basic local exchange telephone service or its equivalent shall enter into Interconnection Agreements with the Incumbent Enhanced 911 Emergency Service Provider to provide Emergency 911 Service and shall:

(Rule 1220-4-8-.13, continued)

- (a) Provide dedicated CAMA trunks to the Incumbent Enhanced 911 Service Providers designated demarcation point in the network.
 - (b) Provide Automatic Number Identification (ANI) of the 911 caller with each 911 call.
 - (c) Provide Automatic ECD Routing.
 - (d) Provide an initial download and daily down-loads of existing subscribers, new subscribers, changes to subscriber's information and the disconnection of existing subscribers to the Incumbent Enhanced 911 Service Providers DMS system.
 - (e) Bill, collect and remit the Enhanced 911 fees associated with its subscribers (including non-facilities based resellers) to the appropriate Emergency Communications District unless authorized by an Emergency Communications District to do otherwise on a customer specific basis; and to provide a mutually agreeable means of auditing the subscriber base by number and type by the Emergency Communications District auditor.
 - (f) Bill the ECD for its reasonable cost to provide E-911 Service to the District for its subscribers.
- (4) After June 6, 1999, the incumbent Enhanced 911 Service Provider or the dominant Local Telecommunications Service Provider within an ECD territory shall be required to offer Enhanced 911 service as provided for in Paragraph (2) above to the ECD at a reasonable cost until such time as the Authority determines that an ECD has a minimum of two (2) or more Enhanced 911 Service Provider alternatives based on cost, service and support to choose Enhanced 911 service from within the ECD territory.

Authority: T.C.A. §§65-2-102, 65-3-105, 65-4-101, 65-4-104, 65-4-124, and 65-5-108. **Administrative History:** Original rule filed April 15, 1998, effective June 15, 1998. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003.



Public Utility Commission of Texas

INSTRUCTIONS FOR THE APPLICATION OR AMENDMENT OF AN SERVICE PROVIDER CERTIFICATE OF OPERATING AUTHORITY OR A CERTIFICATE OF OPERATING AUTHORITY

A **sworn** application should be submitted to: Central Records Filing Clerk
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7180

An Application consists of a title page, an affidavit, and the required, properly completed questions. The Applicant shall also file the Application electronically as directed by the Commission's Procedural Rules, which can be found on the Commission's web site. **Seven copies (six copies and one original) of the Application** should be submitted and should meet the following requirements:

- Copies should be three-hole punched and bound in a loose-leaf binder with a tab before each question/response.
- The docket number (if known) and the Applicant's name should appear on the spine of the notebook and on each page of the Application.

NOTE: The Applicant has the burden of establishing that it is qualified to be granted a certificate to provide local exchange service by the Public Utility Commission of Texas (Commission). The Public Utility Regulatory Act (PURA), V.T.C.A., UTILITIES CODE §§ 54.101-54.159 (Vernon 1998 and Supp. 2000) (PURA) and Substantive Rules §§ 26.109 and 26.111 require the Applicant:

- to prove that it is **financially and technically qualified** to provide the service requested,
- to prove that it is able to meet the Commission's **quality of service requirements**, and
- to prove that an award of an SPCOA or COA to the Applicant is **in the public interest**.

All responses to questions shall be in a truthful manner and must be promptly amended when substantive changes occur by filing **Seven copies (six copies and one original) of the amendment** with Central Records in the established docket.

If the Applicant believes that specific information in its Application is not subject to disclosure under the Texas Open Records Act, V.T.C.A., Government Code §552.001 *et seq.* (Vernon Supp. 2000), the Applicant may label that information confidential, citing the applicable provisions of the Open Records Act. Information labeled confidential will be treated as set forth

in the generic SPCOA and COA protective order issued by the Commission on August 30, 1995, a copy of which may be obtained from Central Records at the address set forth above. The title page, affidavit, and responses to questions 1-15(a), 16, and 26-31 should not be labeled confidential. Confidential information shall be filed in accordance with Procedural Rule §22.71(d). If you have any questions concerning the filing of confidential information, contact the Confidential Coordinator, Ms. Sylvia Hopson (sylvia.hopson@puc.state.tx.us).

The CLEC Application is a multipurpose application. The Applicant may file for multiple amendments within the same application. **All Questions listed in the “Update Information as Required” column must be responded to with either updated detailed information or a response of “NO CHANGE”.** If the Application Question is not listed in one of the two columns below, **DO NOT** submit it. This Application is a **FORMAT**, not a form, so add or drop spaces and lines as required. Attachments must be labeled/identified. Please keep attachments to a minimum, providing the responses directly below question as much as possible. Failure to provide complete, truthful, or responsive answers to all requested questions may result in denial or delay in the processing of the certificate requested. An answer of "Not Applicable" or "N/A" is considered non-responsive and is unacceptable. **The instructions are not to be filed with this Application.**

Application Type	Required Responses To Questions	Update Information as Required, but all Questions listed Require a Response.
New SPCOA Application	Title Page (TP), 1–26	
New COA Application	TP, 1–11, & 13–26	
Re-Qualification SPCOA Application	TP, 1–26	
Re-Qualification COA Application	TP, 1–11, & 13–26	
Name Change Amendment	TP, 1, 2(a, b, c, e, h, i), 3, & 14	2(d, f, g)
Certification Relinquishment	TP, 1, 2(a, b, c, e, h, i), 3, 14, & 27-31	
Change in Ownership / Control	TP, 1, 2(a, b, c, e, f, g, h, i), 14, 15, & 17–26	2(d) & 3–13, & 16
Change in Service Area	TP, 1, 2(a, b, c, e, h, i), 7, 14, 15, & 17–26	2(d, f, g), 3–6, & 8–13, & 16
Service Discontinuation	TP, 1, 2(a, b, c, e, h, i), 3, 14, & 27–31	
Change in Type of Provider	TP, 1, 2(a, b, c, e, f, g, h, i), 4-6, 14, 15, & 17–26	3 & 7–13, & 16
Corporate Restructuring	TP, 1, 2(a, b, c, e, f, g, h, i), 14, 15, & 17–26	2(d), & 3–13, & 16



Public Utility Commission of Texas

1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326
512 / 936-7000 • (Fax) 936-7003
Web Site: www.puc.state.tx.us

(TITLE PAGE)

**APPLICATION FOR CERTIFICATION, RE-QUALIFICATION, OR
AMENDMENT TO A
SERVICE PROVIDER CERTIFICATE OF OPERATING AUTHORITY AND
A CERTIFICATE OF OPERATING AUTHORITY**

DOCKET NO. _____

APPLICANT:

Authorized Representative or Attorney to contact about this Application:

NAME: _____ **TITLE:** _____

ADDRESS:

TELEPHONE: _____ **FAX:** _____

EMAIL ADDRESS: _____

Agent for Service of Process:

NAME: _____ **TITLE:** _____

ADDRESS:

TELEPHONE: _____ **FAX:** _____

EMAIL ADDRESS: _____

AFFIDAVIT

STATE OF _____ §
 §
COUNTY OF _____ §

1. My name is _____ I am
_____ of the Applicant _____.

2. I swear or affirm that I have personal knowledge of the facts stated in this Application for a Service Provider Certificate of Operating Authority or a Certificate of Operating Authority (Select one), that I am competent to testify to them, and that I have the authority to make this Application on behalf of the Applicant. I further swear or affirm that all of the statements and representations made in this Application for a Service Provider Certificate of Operating Authority or a Certificate of Operating Authority (Select one) are true and correct. I swear or affirm that the Applicant understands and will comply with all requirements of law applicable to a Service Provider Certificate of Operating Authority or a Certificate of Operating Authority (Select one).

Signature

Typed or Printed Name

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 20____.

Notary Public In and For the
State of _____

My commission expires: _____

SECTION ONE – BASIC INFORMATION

1. Check one or more of the following Requests:

(a) Check only one.

_____ New SPCOA Application

_____ Amended SPCOA Application

Amending SPCOA No. _____

_____ New COA Application

_____ Amended COA Application

Amending COA No. _____

(b) If you are filing an amendment, check one or more of the following as requests made in this amendment filing:

_____ Name Change Amendment

_____ Certification Relinquishment

_____ Change in Ownership/Control

_____ Service Discontinuation

_____ Change in Service Area

_____ Change in Type of Provider

_____ Corporate Restructuring

_____ Other

(c) Provide a summary explanation of all items checked in “b” above.

2. Provide a description of the Applicant, which shall include the following:

(a) Legal name and all assumed names under which the Applicant conducts business, if any;

(b) Address of principal office and business office;

(c) Principal office/business office telephone number

Fax number

Website address

E-mail address

Toll-free customer service telephone number. *(If the Applicant has not obtained the toll-free customer service telephone number at the time of the Application, the Applicant must commit to obtaining one before beginning business);*

(d) FCC Carrier Identification Code (CIC) or National Exchange Carriers Association (NECA) Operating Carrier Numbers (OCNs), if available;

(e) Form of business in Texas (*e.g.*, corporation, partnership, sole proprietorship), Charter/Authorization number, date business was formed and date change was made (if applicable). Provide the State and date in which parent company is registered. *(The Commission requires registration with the Secretary of State for all forms of business, except sole proprietorships.)*

(f) Name, address, and office address of each director, officer, or partner;

- (g) Name, address, and office address of each of the five largest shareholders, if not publicly traded;
- (h) Legal name of parent company, if any, and a description of its primary business interests; and,
- (i) Legal name of all affiliated companies that are public utilities or that are providing telecommunications services and the states in which they are providing service. Give a description of all affiliates and explain in detail the relationship between the Applicant and its affiliates. An organizational chart should be provided.

3. State the name **and only one name**, in which the Applicant wants the Commission to issue its certificate. *(NOTE: If the Applicant is a corporation, the Commission will issue the certificate in either the Applicant's corporate or assumed name, not both. The certificate holder must use only the name approved by the Commission on all bills and advertisements sent to or viewed by the public. Name Changes require Commission Approval as well as Secretary of State Approval.)*

SECTION TWO – TECHNICAL INFORMATION

- 4. (a) Provide a detailed description of the telecommunications services to be provided.
- (b) Indicate with a yes or no response, whether the Applicant will be providing the following telecommunications services:

	<u>Business</u>	<u>Residential</u>
_____ POTS (Plain Old Telephone Service)	_____	_____
_____ ADSL	_____	_____
_____ ISDN	_____	_____
_____ HDSL	_____	_____
_____ SDSL	_____	_____
_____ RADSL	_____	_____
_____ VDSL	_____	_____
_____ Optical Services	_____	_____
_____ T1-Private Line	_____	_____
_____ Switch 56 KBPS (KiloBits Per Second)	_____	_____
_____ Frame Relay	_____	_____
_____ Fractional T1	_____	_____
_____ Long Distance	_____	_____
_____ Wireless	_____	_____
_____ Other (Please Describe): _____		

- 5. (a) Is the Applicant providing prepaid calling services?

- (b) If yes to (a), provide a yes or no response to the list of telecommunications services below:

_____ Residential Prepaid Local Calling Services
_____ Business Prepaid Local Calling Services
_____ Residential Prepaid Domestic Long Distance Calling Services
_____ Business Prepaid Domestic Long Distance Calling Services
_____ Residential Prepaid International Long Distance Calling Services
_____ Business Prepaid International Long Distance Calling Services

6. (a) Indicate below the type of local exchange provider being requested: (*Facilities-based, Resale Only, Data Only, or a combination these types of providers*).
- (b) If the answer involves facilities-based or data, please provide a detailed description of the telecommunication facilities, platforms, or systems that will be used to provide these services. Telecommunication facilities include: conduits, ducts, poles, wires, cables, end-office switches, telecommunications circuit equipment, telecommunications signaling systems, and telecommunications transmission facilities used to provide basic local exchange telephone service, basic local telecommunications service, and switched access service.
7. Provide a written description of the exchanges, local access and transportation areas (LATAs), or incumbent local exchange company (ILEC) service areas or attach a scaled map of the geographic area for which the certificate is requested within the State of Texas that the Applicant proposes to serve.
8. Does the Applicant, owner, or any affiliate currently hold a service provider certificate of operating authority (SPCOA), certificate of operating authority (COA), or certificate of convenience and necessity (CCN) for any part of the area covered by this Application?
9. (a) Does the Applicant expect to provide service to customers other than itself and its affiliates?
- (b) Has the Applicant provided one copy of this Application to the Commission on State Emergency Communications (a.k.a. 911 Commission)?
(*Send copy to Commission on State Emergency Communications, Accounts Payable Section at 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701-3942, with phone number 512-305-6911, fax number 512-305-6937, and website address www.911.state.tx.us*).
- (c) As part of the Application provided to the 911 Commission, the applicant shall provide the name, title, address, and telephone number of the applicant's 911 contact person as required in Substantive Rule No. 26.433(e)(2)(a). Any change in the information about the applicant's designated 911 contact person shall be filed with the 911 Commission with five days of the change.

10. (a) Is the Applicant a municipality?
- (b) Will the Applicant enable a municipality or municipal electric system to offer for sale to the public, directly or indirectly, local exchange telephone service, basic local telecommunications service, switched access service, or any non-switched telecommunications service used to provide connections between customers' premises within an exchange or between a customer's premises and a long distance provider serving the exchange?
11. (a) State whether the Applicant has applied for any necessary municipal consent, franchise, or permit required for the types of services and facilities for which it is applying.
- (b) Identify the municipalities from which such consent, franchise, or permit has been requested.
12. (a) **APPLICABLE TO SPCOA APPLICANTS ONLY.** Report total intrastate switched access minutes of use for the Applicant, together with its affiliates, for the twelve-month period beginning sixteen months before the first day of the month in which this Application is filed. (*In calculating minutes of use for this question, include minutes of all entities affiliated with the Applicant.*)
- (b) **APPLICABLE TO SPCOA APPLICANTS ONLY.** Identify all affiliates whose minutes of use are included in the calculation required in 12(a).

SECTION THREE – TECHNICAL QUALIFICATIONS

13. (a) Has the Applicant, its owners, or any affiliate applied for a permit, license, or certificate to provide telecommunications services in any state other than Texas? If yes, identify the state(s) and fully explain.
- (b) Has the Applicant, its owners, or any affiliate ever had a permit, license, or certificate to provide telecommunications services granted by any state? If yes, identify the state(s) and fully explain.
- (c) Has the Applicant, its owners, or any affiliate ever had any permit, license, or certificate denied or revoked by any state? If yes, identify the state(s) and fully explain.
- (d) Has the Applicant, its owners, or any affiliate ever provided telecommunications services in Texas or any other state? If yes, identify the state(s) and fully explain.
- (e) List any telecommunications certifications/authorizations or registrations granted to the Applicant, its parent company, its owners, or any of its affiliates within the State of Texas.

14.
 - (a) Provide the complaint history and history of regulatory actions taken against the Applicant, its parent company, any affiliated companies, and/or any companies of the owners that are public utilities or that have provided telecommunications services for the past 24 months in other states. The information should include, but not be limited to, the type of complaint, status of the complaint, and the resolution of the complaint.
 - (b) Has the Applicant, its parent company, any affiliated companies, and/or any companies of the owner been notified that it is currently under investigation in Texas or another state or jurisdiction for violation of any deceptive trade or consumer protection law or regulation? If yes, please explain.
 - (c) Provide the number of customers per state (including Texas) for the past 24 months, for the Applicant, its parent company, and/or any affiliates that are providing telecommunications services.
15.
 - (a) Provide a detailed description of the Applicant's technical qualifications to provide the local exchange service, basic local telecommunications service, and/or switched access service proposed in this Application.
 - (b) If the Applicant plans to rely upon a consultant to meet the technical qualifications requirements, provide the following information: (1) name, address, and phone number of consultant, (2) a copy of the contract between the principals and the consultant, (3) consultant's resume or description of experience, (4) information regarding any professional registrations or certifications, (5) percentage of the consultant's time being contracted, and (6) a list of other telecommunications companies served by the consultant and the percentage of time allotted to each company.
 - (c) Provide a detailed description or individual resumes setting forth the qualifications of the Applicant's key personnel. Descriptions or resumes shall include (1) **Key Personnel Names**, (2) **Applicant Company Titles**, (3) **Detailed Telecommunications Experience**, and (4) **Years of Experience**.
16. Attach a completed Service Quality Questionnaire.

SECTION FOUR – FINANCIAL QUALIFICATIONS

17. If the Applicant is relying on a third party, including a parent, subsidiary, or affiliate company to support its financial ability to provide the services covered by this Application, provide the following information:
 - (a) identify the third party;

- (b) state the third party's relationship to the Applicant; and
 - (c) detail the nature and extent of the reliance.
18. Provide a projected monthly cash-flow forecast for the initial 24-month period following the provision of service by the Applicant. This cash-flow forecast should detail all anticipated revenues and expenses, including operating and marketing expenses. Itemize one-time costs such as the purchase of start-up equipment, and the costs of obtaining an operating certificate from the Commission. Explain any assumptions made in the forecast (revenue-per-customer, sales growth, expense growth) in footnotes.
19. Provide a monthly forecast of the accounts receivable balance anticipated to be carried by the Applicant during the initial 24-month period of service provision.
20. If the Applicant plans to be a facilities-based carrier, provide a 36 month estimate of capital expenditures, a description of the facilities to be installed, and a description of any anticipated financing. Indicate whether or not these capital expenditures are included in the cash-flow forecast provided above. If so, please explain in detail how they were included.
21. Provide evidence of the Applicant's financial qualifications, or the financial qualifications of the third party on which the Applicant is relying, to provide the proposed services. Such evidence should be sufficient to satisfy the financial requirements in PUC Substantive Rule §§26.109 and/or 26.111. Financial instruments that will meet the cash requirements are delineated in PUC Substantive Rule §§ 26.109 and/or 26.111. The Applicant must provide copies of documents from independent sources that demonstrate the Applicant's access to cash or other financial resources. Examples of documentation that may be provided include copies of:
- (a) three recent, consecutive bank statements;
 - (b) an attestation letter of net financial strength from a certified public accountant or investment account manager;
 - (c) audited financial statements;
 - (d) line-of-credit agreements or letters of credit;
 - (e) sworn letters of guaranty from third parties on which the Applicant is relying for financial support; and
 - (f) bank loan approval documents.
22. Applicants that are established business entities shall provide historical financial statements (audited, if available) for the last two years, including income statements, balance sheets, cash-flow statements, and any related footnotes or schedules.

23. If the Applicant is an established business entity, state whether the Applicant, or the third party on which the Applicant is relying for financial support, is currently under the protection of the federal bankruptcy laws or has been under the protection of the federal bankruptcy laws in the past two years. If so, please explain in detail the extent to which the bankruptcy affects the Applicant's financial qualifications.
24. Please provide a summary of any history of bankruptcy, dissolution, merger or acquisition of the applicant or any predecessors in interest for two calendar years immediately preceding this Application.

SECTION FIVE - MISCELLANEOUS

25. Are any owners, directors, officers, or partners in the organization convicted felons? If yes, please explain.
26. OPTIONAL RESPONSE: Provide any additional information that the Applicant believes may be relevant to the Applicant's qualifications to provide the proposed service.

SECTION SIX – RELINQUISHMENT & SERVICE DISCONTINUATION INFORMATION

27. Provide a copy of the customer notification (minimum of 61 days notice) sent to each customer indicating the intent of the Applicant to discontinue service. Notice shall, at a minimum, contain the following information:
 - (a) Approximate date the Applicant intends to discontinue service(s) or operations.
 - (b) Arrangements to transfer customers to carrier of their choice. If no choice is made, provide the carrier of last resort to which the customers' service(s) will be transferred.
 - (c) How and when deposits and credits will be returned to customers. Deposits and credits shall be returned to customers within 60 days of the notification to relinquish certification, or within 30 days of the notification of service(s) discontinuation.
 - (d) A statement that any switchover fees shall be paid by the Applicant for customers to be transferred to the carrier of their choice.
28. Provide a statement that the Applicant shall send a copy of the Application to the Advisory Commission on State Emergency Communications and all affected 9-1-1 entities within 5 days of filing the Application.

29. Provide a statement that the Applicant shall notify the Texas Comptroller's Office, Texas Secretary of State, and the administrator of the Texas Universal Service Fund of its Application within 5 days of filing the Application.
30. Provide a statement that the Applicant shall return deposits and credits to the customers.
31. Provide a statement that the Applicant shall void all interconnection agreements upon Commission approval of an Application to relinquish certification.

SERVICE QUALITY QUESTIONNAIRE for SPCOA and COA APPLICANTS

Will the Applicant meet each of the following benchmark service quality standards? For each "NO" response, please provide an explanation. If the Applicant is relying on an underlying carrier to meet any of the following standards, identify the standard and the carrier.

YES ____ NO ____ Make one-party line service available upon request to all subscribers of local exchange service.

YES ____ NO ____ Install 95% of primary service orders and 90% of regular service orders within five working days of customer orders, excluding those orders where a later date is requested by the customer.

YES ____ NO ____ Meet 90% of commitments to customers regarding the date of installation of service orders, excepting customer-caused delays.

YES ____ NO ____ Maintain the level of held regrade orders (as defined in Substantive Rule 26.54) at or below one percent of access lines served.

YES ____ NO ____ Answer 85% of toll and assistance operator calls within ten seconds.

YES ____ NO ____ Answer 90% of repair service calls and calls to business offices within 20 seconds.

YES ____ NO ____ Provide dial tone within 3 seconds for 98% of calls.

YES ____ NO ____ Maintain an availability factor for stored program controlled digital and analog switching facilities (local intra-office) at 99.99%, or keep total unscheduled outages below 53 minutes per year.

YES ____ NO ____ Maintain an availability factor for stored program controlled digital and analog switching facilities (local inter-office) at 99.93%, or keep total unscheduled outages below 365 minutes per year.

YES ____ NO ____ Complete 97% of properly dialed tolled calls without encountering failure because of blockages or equipment irregularities.

YES ____ NO ____ Maintain an average monthly rate of customer trouble reports, excluding CPE reports, at or below 6%.

YES ____ NO ____ Clear 90% of out-of-service trouble reports within 8 working hours, except where access to the customer's premises is required and not available or where interruptions are caused by unavoidable casualties and acts of God affecting large groups of customers.

- YES ____ NO ____ Maintain the number of repeated trouble reports on residence and single-line business lines at or below 22% of the total customer trouble reports on those lines.
- YES ____ NO ____ Maintain transmission facilities meeting the requirements of Substantive Rule 26.54, Transmission Requirements.
- YES ____ NO ____ Meet the Commission's continuity-of-service requirements established in Substantive Rule 26.51.
- YES ____ NO ____ Provide 911 emergency telephone service in accordance with Chapters 771 and 772 of the Texas Health and Safety Code, as applicable.
- YES ____ NO ____ Commit to providing equipment that will comply with 911 requirements.
- YES ____ NO ____ Commit to providing at least 1 customer service representative per every 2,500 customers during normal business hours.
- YES ____ NO ____ Commit to providing equipment that is local number portability (LNP) capable.
- YES ____ NO ____ Maintain an emergency operations plan that addresses disaster recovery procedures.
- YES ____ NO ____ Comply with PUC Substantive Rules §26.32 and §26.130 requiring notification of customers about slamming and cramming information on monthly bills.
- YES ____ NO ____ Comply with PUC Substantive Rules §26.31 for customer disclosure.
- YES ____ NO ____ Comply with PUC Substantive Rules §26.122 regarding customer proprietary network information.
- YES ____ NO ____ Comply with applicable portions of Chapter 26, Subchapter B regarding customer service and protection.
- YES ____ NO ____ Comply with anti-discrimination laws on the basis of race, nationality, color, religion, sex, marital status, income level, source of income, or geographic location.
- YES ____ NO ____ Disclose to customer that they may contact the PUC and pursue complaints if the customer and certificate holder cannot resolve the complaint.

Frequently Asked Questions Concerning CLEC Applications

New Applications (Substantive Rules 26.109 and 26.111)

The Public Utility Commission of Texas' (PUC) telecommunications substantive rules can be found and downloaded from: <http://www.puc.state.tx.us/rules/subrules/telecom/index.cfm>

1. Do all types of telecommunications services require certification?

No. PURA Section 54.003 has a list of telecommunications services that do not require certification. They are:

- An interexchange telecommunications service;
- A nonswitched private line service;
- A shared tenant service;
- A specialized communications common carrier service;
- A commercial mobile service; or
- An operator service as defined by Section 55.081.

2. How long does it take to get a certification?

By law, the PUC has 60 days to approve or deny a completed application from the day it is filed in Central Records. The 60 days may be extended for the following reasons:

- To suit scheduling conflicts of the Commission Open Meetings;
- The application is incomplete or an old version of the application has been submitted;
- PUC staff requests additional time to evaluate information not filed in a timely manner or for other matters that require further attention. Staff must show good cause before the request will be granted;
- The applicant requests that the application deadline be extended by filing a letter or memo in Central Records. One original and five copies of the letter must be filed in Central Records. The application deadline extension request must be filed by an authorized representative of the applicant. The extension deadline request must contain the docket number and the length of time requested, such as one day, one week, two weeks or however much time is needed.

Currently, the PUC has authorized an administrative law judge to grant routine applications administratively. This administrative approval process allows the Policy Development Division to grant approvals on a reduced time line of about 45 to 50 days.

3. Does the application process require any fees?

No. There are no fees for filing COA or SPCOA applications or amendments to COA or SPCOA certifications at the PUC.

4. Who are the Commission contacts for questions concerning the application process for a COAs or SPCOAs?

- **Technical Questions (questions 1-16 and 25-31)**
Gordon Van Sickle, Infrastructure Reliability Division
(512) 936- 7343 or gordon.vansickle@puc.state.tx.us
- **Financial Questions (questions 17-24)**
Neal Frederick, Electric Industry Oversight Division
(512) 936 7459 or neal.frederick@puc.state.tx.us
- **Legal or Notification Questions**
Mark Hallmark, Legal Division
(512) 936-7293 or mark.hallmark@puc.state.tx.us
- **Filing Requirement Questions**
Central Records
(512) 936-7180

5. Where can I get a copy of the current COA and SPCOA Application Form?

The current COA and SPCOA Application Form is posted on the PUC Internet Site <http://www.puc.state.tx.us/telecomm/forms/clec/clecapp.doc>. You may also obtain a copy from Central Records. The COA and SPOCA Application Form changes periodically, so check it before you begin filing a new or amendment application. Old CLEC applications will not be accepted and use of an old application will delay the certification process, which officially begins only when the current application is filed.

6. Must the application form be filed by an attorney?

No. The application can be filed by an authorized representative of the applicant. The applicant designates the authorized person and lists them on the Title Page of the application. There is no requirement that this person be an attorney.

7. If I want to provide local exchange communications (LEC) services [become a Competitive Local Exchange Carrier (CLEC)], what must I do?

You must be certificated by the PUC, before you can begin providing competitive local telecommunications services in Texas. Two types of certificates have been established: the Certificate of Operating Authority (COA), and the Service Provider Certificate of Operating Authority (SPCOA). The types of COA and SPCOA providers are as follows:

- COA (facilities-based and resale)
- SPCOA (facilities-based and resale)
- SPCOA (resale only)
- SPCOA (data-only, facilities based, and resale)
- SPCOA (data-only and resale-only)

The substantive rules concerning COAs and SPCOAs are: §26.109 (COAs), §26.111 (SPCOAs), §26.113 (Amendments, Name Changes, and Relinquishments), and §26.114

(Suspension or Revocation of Certificates of Operating Authority (COAs) and Service Provider Certificates of Operating Authority (SPCOAs)).

8. What are the differences between a COA and an SPCOA certification?

COA certifications have an obligation to serve, while SPCOA certifications do not have the obligation to serve. Both can participate in the Universal Service Fund (USF). Basically, COAs are for companies that do not qualify for SPCOAs.

9. How do I know which certification is best for me?

If you are planning to build your own facilities, be obligated to serve all customers within your allotted service area and want to receive funds from the USF, the COA is probably the certification for you.

If you want to build your own facilities or resell Unbundled Network Elements (UNEs), such as local loops, directory assistance, or data switching; if you do not want to be obligated to serve any customers within your allotted service area and want to receive funds from the USF, then the SPCOA (facilities based and resale) certification is probably the certification that you want.

If you want to only resell retail services (does not include UNEs or UNE-P), not be obligated to serve any customers within your allotted service area and do not want to receive funds from the USF; then the SPCOA (resale-only) certification is probably the certification that you want.

If you want to build your own facilities to provide data-only services, and not be obligated to serve any customers within your service area; then the SPCOA (data only-facilities based and resale) certification is probably the certification that you want.

If you want to provide only resale data-only services and not be obligated to serve any customers within your allotted service area; then the SPCOA (data-only, resale-only) certification is probably the certification that you want.

Review your business plan and consult with an attorney, if necessary, to assure that you understand the opportunities and obligations of each certification option before you apply to the PUC.

10. What are the most common general mistakes that could delay an application?

- Not answering all parts of a question;
- Using N/A or Not Applicable as an answer. This is considered non-responsive and will delay processing;
- Not repeating the question before giving the answer;
- Not numbering the subparts of each question; and

- On the Title Page, the Agent for Service of process must be a corporation or individual registered in or residing in Texas.
- Not following the Commission’s rules and procedures on how to file documents.

11. What are the most common specific mistakes by question number that could delay an application?

-
- **Question #1:** Not providing a detailed explanation of what applicant is trying to do. Use Part “C” to fully explain what applicant is seeking to do.
- **Question #2(h)&(i):** Not providing complete information on the Parent/Affiliates of the Applicant. It is necessary to tell where the parent and/or affiliates conduct business and the number of customers in each state.
- **Question #3:** Only one name should be entered. This is the name that will go on your certification and the name that you are supposed to use with the public on all advertisement and billing. No d/b/as can be attached to your requested name. For example “ABC Company d/b/a XYZ Communications. You may use either ABC Company or XYZ Communications, but not both.
- **Question #4:** This question has TWO parts A and B. Make sure you provide a complete/reasonable explanation of the services to be provided. Make certain your business plan is realistic, so that your finances are reasonable to support your business plan. Do not expect Staff to approve unrealistic business plans, with no personnel and no financing.
- **Question #7:** The only acceptable descriptions of your requested service area are:
 - Exchanges, which you should list by name;
 - Local Access and Transport Areas (LATAs), which is a specific collection of Exchanges);
 - The Service Area(s) of CCN holders, the Incumbent Local Exchange Carriers ILECs;
 - The service areas of all ILECs in Texas; or
 - The entire State of Texas.
 - **DO NOT** describe your service area by listing counties, metropolitan areas, or subdivisions.
- **Question #12:** This response requires a number. If the applicant has no intrastate switched access minutes, then the answer is “zero” or “none”.
- **Question #15:** Descriptions of key personnel generally leave out at least one of the following required pieces of information:
 - Name;
 - Position or title in the company;
 - Years of Telecommunications Experience; and
 - Type of Telecommunications Experience.
- **Question #16:** The Quality of Service Questionnaire must always be attached.

12. What are the financial requirements for a company to qualify for a COA or an SPCOA?

SPCOA (reseller)

- A new company must have \$25,000 in assets to qualify for a SPCOA for reselling telephone service.
- A company that has been in business for two years or more, it may qualify with \$10,000 in assets, if it can show that its been profitable by the standards in the PUC rule 26.111(d)(1)(A-F).

COA or an SPCOA (facilities based and resale). The applicant must have \$100,000 in assets.

13. If my company is new, how can I demonstrate that it's been profitable?

The standards relating to profitability only apply to companies that have been in business awhile. New companies obviously cannot demonstrate profitability.

14. Does a company have to satisfy all of the standards of rule 26.109(d)(1)(A-F) and 26.111(d)(1)(A-F) to be qualified financially?

No, it is not necessary to satisfy all of the standards. The listed standards are a suggested means of showing that the company has the required cash. It's possible that a strong demonstration satisfying just one of the standards would be sufficient.

15. If the company is using a letter of credit or bank loan to meet the cash requirement, does it have to actually draw the money down into its cash account?

No, all that is required is that the loan be available for a period of at least twelve months beyond the time that the applicant expects to get its certificate.

16. What is the meaning of a third party in the Question 17 of the CLEC application?

This question and other questions relating to financial qualifications (questions 17-24), seek to determine the credit-worthiness of the person or company that will be providing a guarantee to the applicant's debt. An applicant must show that the guarantor has the ability and the intention of providing financial support sufficient to meet the required cash requirements of the certificate the applicant is applying for.

17. Must a Tariff be filed with the SPCOA/COA Application?

No. Tariffs and/or price sheets are filed **separately under Control No. 27385**, after the SPCOA or COA application is approved and before the now-certificated company begins to do business in Texas. For information on tariffs and/or price sheets, contact:

- Janis Ervin, Office of Regulatory Affairs/Telephone Industry Analysis (512) 936-7372 or janis.ervin@puc.state.tx.us
- John Costello, Office of Regulatory Affairs/Telephone Industry Analysis (512) 936-7377 or john.costello@puc.state.tx.us

The Most Common Filing Mistakes

18. Applicants should carefully review Procedural Rules 22.71 (Filing of Pleadings and Other Materials) and 22.71 (Formal Requests of Pleadings to be Filed with the Commission).

PUC Procedural Rules: <http://www.puc.state.tx.us/rules/procrules/index.cfm>

- Applicants often forget to leave one copy unbound without staples, tabs or separators. This unbound copy should NOT be the original. This unbound copy is used by Central Records to scan into the AIS system.
- Applicants often forget to bind or submit the copies of the applications in folders or notebooks.
- Applicants do not file the required number of copies. One original and six copies (a total of Seven) must be filed with Central Records.
- Applicants do not number all the pages of the unbound copy consecutively; beginning with the first page of the document, including all attachments. Handwritten numbers are acceptable.
- Applicants forget to file all tables, graphs, charts, spreadsheets, illustrations, drawings, and other objects not electronically integrated into the text portions of a document as referenced attachments. Oversized documents should not be filed electronically, but as referenced attachments.
- Applicants forget to label all diskettes (for electronic filings) with the control or docket number (if known), the company name, and the name of the authorized representative submitting the document.
- Applicants forget to file all information, whether required by order or requested by Commission staff in Central Records. Information sent directly to Commission staff is not considered filed with the Commission. Failure to file required information in Central Records can result in a docket being denied or dismissed.
- **No information submitted under a CLAIM OF CONFIDENTIALITY should be submitted electronically.** When filing Confidential Information, applicants must follow the procedures set out in Procedural Rule 22.71(d). If you have any questions concerning the filing of confidential information, contact the Confidential Documents Manager, Ms. Carol Milner (carol.milner@puc.state.tx.us).

19. Questions about filing documents should be directed to:

Central Records – (512) 936-7180

20. Questions about the electronic filings process, which is required for all filings that are ten pages or longer.

Information on this electronic filing process, known as the Interchange, is available at <http://www.puc.state.tx.us/interchange/index.cfm>.

Applicants experiencing difficulties with the Interchange should contact the help desk by electronic mail. That address is: helpdesk@puc.state.tx.us

Amendment Applications to COAs or SPCOAs

Substantive Rules 26.113 and 26.114 discuss amendment applications. To review amendment applications see: <http://www.puc.state.tx.us/rules/subrules/telecom/index.cfm>

21. What are the most common mistakes made when filing a COA or SPCOA Amendment Application?

The most frequently made mistake when filing an amendment application is the company filing the application. Only the certificated company can file an amendment to its own COA or SPCOA certification.

Amendment Applications must be filed with the Commission for any of the following changes:

Change of Ownership: Sale, Transfers or Mergers

Technically speaking, you cannot sell or purchase a COA or SPCOA certification. The Commission allows a certificated company to transfer its certification to another company, only if the purchasing company qualifies to receive certification. The certificated company is required to file an amendment when it sells or transfers the controlling interest of its company. The amendment application requires the certificated company to fill out Question #1 and the remaining information should be supplied by the purchasing company. The CLEC application instructions state which questions must be answered.

The current Amendment process combines two filing processes: a relinquishment filing from the selling company and a certification filing for the purchasing company. If the purchasing company submits the amendment application, it must do so as an Authorized Representative of the selling company, or the application process will be suspended until the application is filed properly by the certificated company or its authorized Representative.

Discontinuance of Service or Relinquishment

A certificated company wanting to discontinue service or relinquish its certification is required to file an amendment application and continue operating until it receives written permission from the Commission to cease operations. Companies that go bankrupt and stop providing service are required to file an amendment application requesting relinquishment of their certification.

Change of Control, Corporate Restructuring

A certificated company is required to file an amendment when there is a change in the controlling interest of the company. Corporate restructuring can cause a change in control of the certification, depending on which level on the company received the certification. If the company was certificated at the at the parent level, then most corporate restructuring will not result in a change of control. If the company was certificated at a subsidiary level, then most corporate restructuring will result in a change of control. It is the responsibility of the certificated company to understand and determine what is required.

Change in Type of Provider

If a certificated company wants to upgrade its type of provider from resale only or data only into facilities-based [which includes reselling of unbundled network elements (UNEs)], the certificated company must file an amendment to seek approval of the upgrade, before it can install and use its own equipment or resell UNEs.

Change in Service Area

If a certificated company wants to expand or diminish its existing service area, it must file an amendment seeking approval.

Name changes

If a certificated company wants to change or modify its certificated name, it must file an amendment seeking approval.

The certificated name shall be used on all printed materials such as letterhead, telephone bills, posters, brochures, and advertising. The certificated name shall be used when answering the telephone, advertising, or relating to the public. The company cannot abbreviate its certificated name, use initials, or in any way modify its certificated name, without seeking and receiving approval from the Commission.

Information about Taxes and Business Registrations

22. Where do I get information about the Taxes my new CLEC company will be responsible for?

For Taxes such as Sales Tax, Franchise Tax, Telecommunications Tax, etc.; contact the Texas Comptroller's Office (800-252-5555) for explanations, help, and forms.

23. Should I register my company name with the Secretary of State (SOS)?

Yes. If you are requesting to serve an area larger than one county, it is advisable to register your company's name with the SOS (512-463-5555) to make sure your name isn't already taken and reserve the right to continue using that name throughout the State of Texas.

24. How do I contact the State Agencies listed in Question Nos. 28 and 29?

TEXAS COMPTROLLER'S OFFICE

**Truda Senter
111 East 17th Street
P.O. Box 13528
Austin, Texas 78711-3528
463-4755
Fax# 463-4978
truda.senter@cpa.state.tx.us
Tax Assistance 463-4600**

TEXAS SECRETARY OF STATE

**Carmen Flores (Attorney)
1019 Brazos
P.O. Box 13697
Austin, Texas 78711
463-5588
cflores@sos.state.tx.us
To check on Charter Numbers for Corporations, call 463-5555
Back-up number call 463-5654**

Commission on State Emergency Communications (911 COMMISSION)

**Brian Millington
brian.millington@csec.state.tx.us
305-6923
333 Guadalupe Street
Suite 2-212
Austin, Texas 78701-39421
512-305-6911
Fax Number: 1-512-305-6937
www.911.state.tx.us**

Texas USF Administrator (Solix, Inc.)

**800-899-6078
Frank Garofalo
State Program Operations
Solix, Inc.
100 South Jefferson Road
P.O. Box 902
Whippany, New Jersey 07981
fgarofa@solixinc.com
973-581-5225 - Voice
973-599-6504 - Fax**

OCN Numbers and Company Codes

**Melanie Proehl-Steinhart
973-884-8355**

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§26.109. Standards for Granting Certificates of Operating Authority (COAs).

- (a) **Scope and purpose.** This section applies to the certification of persons and entities to provide local exchange telephone service, basic local telecommunications service, and switched access service as holders of certificates of operating authority established in the Public Utility Regulatory Act (PURA), Chapter 54, Subchapter C. Through this section, the commission strives to protect the public interest against entities that are not qualified to provide local exchange telephone service, basic local telecommunications service, and switched access service. The commission's overall goal is to encourage the development of a competitive marketplace for local exchange telecommunications services, free of unreasonable barriers to entry, that will provide consumers with the best services at the lowest cost.
- (b) **Automatic disqualification.** This section contains reasons an applicant would be prohibited from acquiring a COA. An applicant is automatically disqualified from obtaining a COA:
- (1) if the applicant is a municipality; or
 - (2) if the applicant has not created a proper separation of business between itself and an affiliate holder of a certificate of convenience and necessity as required by PURA §54.102.
- (c) **Standards for granting certification to COA applicants.**
- (1) The commission shall consider the factors listed in subparagraphs (A) - (F) of this paragraph in deciding whether to grant a COA to an applicant proposing to serve an exchange.
 - (A) Whether the applicant has satisfactorily provided all of the information required in the Application for a Certificate of Operating Authority.
 - (B) Whether the applicant is financially qualified to be a facilities-based local service provider. To prove financial qualification as a facilities-based utility, an applicant shall provide evidence sufficient to establish that:
 - (i) Applicant possesses the greater of \$100,000 cash or cash equivalent or sufficient cash or cash equivalent to meet start-up expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for the first two years of its Texas operations; or
 - (ii) Applicant is an established business entity and is able to demonstrate evidence of profitability in existing operations for two years preceding the date of application by submitting a balance sheet and income statement audited or reviewed by a certified public accountant establishing all of the following:
 - (I) A long-term debt to capitalization ratio of less than 60%;
 - (II) A return-on-assets ratio of at least 10%; and,
 - (III) The greater of \$50,000 cash or cash equivalent or sufficient cash or cash equivalent to meet start-up expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for a minimum of the first two years of its Texas operations.
 - (C) Whether the applicant is technically qualified. The commission shall determine whether an applicant possesses sufficient technical qualifications to be awarded a COA based upon a review of the following information.
 - (i) Prior experience by the applicant or one or more of the applicant's principals or employees in the telecommunications industry or a related industry.

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§26.109(c)(1)(C) continued

- (ii) Any complaint and/or compliance history regarding the applicant, applicant's telecommunications or public utility affiliates, predecessors in interest, shareholders, and principals at the Public Utility Commission of Texas, the Office of the attorney general, the Attorney General in other states, and any other relevant regulatory agency for the previous two calendar years. If available, relevant information shall include, but not be limited to, the type of complaint, status of complaint, resolution of complaint and the number of customers in each state where complaints occur.
 - (iii) If available, an affirmation that the applicant, its telecommunications or public utility affiliates, predecessors in interest, shareholders, and principals are in good standing at the Texas Comptroller's Office, active in the Texas Secretary of State files, and current in its Texas Universal Service Fund assessment.
 - (iv) A summary of any history of bankruptcy, dissolution, merger or acquisition of the applicant or any predecessors in interest in the two calendar years immediately preceding the application.
 - (v) A statement indicating whether the applicant has been notified that it is currently under investigation, either in this state or in another state or jurisdiction for violation of any deceptive trade or consumer protection law or regulation, and whether the applicant has been fined, sanctioned or otherwise penalized either in this state or in another state or jurisdiction for violation of any consumer protection law or regulation.
- (D) Whether the applicant is able to meet the commission's quality of service standards. Quality of service standards shall include, but not be limited to, 911 compliance and local number portability capability.
- (E) The applicant will be required to meet the customer protection rules and disclosure requirements applicable to certificate holders set forth in Chapter 26, Subchapter B of this title (relating to Customer Service and Protection).
- (F) Whether certification of the applicant is in the public interest.
- (2) If, after considering the factors in this subsection, the commission finds it to be in the public interest to do so, the commission may limit the geographic scope of the COA.
- (3) If the applicant is an affiliate of a certificate of convenience and necessity (CCN) holder, the applicant must show that the affiliated CCN holder is in compliance with federal law and Federal Communications Commission rules governing affiliates and structural separation. The applicant shall file an affidavit from the affiliated CCN holder attesting to this compliance, and provide reference to the Federal Cost Allocation Manual (CAM) filed with the commission.
- (d) **Financial instruments that will meet the cash requirements established in this section.**
- (1) Applicants for COAs shall be permitted to use any of the financial instruments set out in subparagraphs (A)-(F) of this paragraph to satisfy the cash requirements established in this rule to prove financial qualification.
 - (A) Cash or cash equivalent, including cashier's check or sight draft.
 - (B) A certificate of deposit with a bank or other financial institution.
 - (C) A letter of credit issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission.

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§26.109(d)(1) continued

- (D) A line of credit or other loan, issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission and payable on an interest-only basis for the same period.
 - (E) A loan issued by a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission, and payable on an interest-only basis for the same period.
 - (F) A guaranty issued by a shareholder or principal of applicant, a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond the certification of the applicant by the commission.
- (2) To the extent that the applicant relies upon a loan or guaranty provided in paragraph (1)(E) or (F) of this subsection, the applicant shall provide evidence sufficient to establish that the lender or guarantor possesses sufficient cash or cash equivalent to fund the loan or guaranty.
 - (3) All cash and instruments listed in paragraph (1) (A) - (F) of this subsection shall be unencumbered by pledges as collateral and shall be subject to verification and review by the commission prior to certification of the applicant and for a period of 12 months beyond the date of certification of the applicant by the commission. Failure to comply with this requirement may void an applicant's certification or result in such other action as the commission deems in the public interest, including, but not limited to, assessment of reasonable penalties and all other available remedies under the Public Utility Regulatory Act.
- (e) **Name on certificates.**
- (1) All local exchange telephone service, basic local telecommunications service, and switched access service provided under a COA shall be provided in the name under which certification was granted by the commission. The commission shall grant the certificate in only one name.
 - (A) If the applicant is a corporation, the commission shall issue the certificate in the corporate or assumed name of the applicant.
 - (B) If the applicant is an unincorporated business entity or an individual, the commission shall issue the certificate in the assumed name of the entity or the individual.
 - (C) The commission shall review the requested name to determine if the name is deceptive, misleading, vague, inappropriate, or duplicative of an existing certificated telecommunications utility. If the commission determines that the requested name is deceptive, misleading, vague, inappropriate, or duplicative, it shall notify the applicant and the applicant shall modify the name to alleviate the commission's concerns. If the name is not adequately modified, the application may be denied.
 - (2) The holder of a COA may request commission approval to change the name on the certificate by filing an application to amend its certificate with the commission.
- (f) **Non-use of certificates.** Applicants will use their COA certificates expeditiously.
- (1) A COA certificate holder that has not provided service for a period of 12 consecutive months must provide a sworn affidavit to the commission on an annual basis attesting that they continue to possess the technical and financial resources necessary to provide the level of service proposed in their initial application.

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§26.109(f) continued

- (2) A COA certificate holder that has not provided service within 48 months of being granted the certificate by the commission, may have its certificate suspended or revoked, as defined by §26.114 of this title (relating to Suspension or Revocation of Certificates of Operating Authority (COAs) and Service Provider Certificates of Operating Authority (SPCOAs)), after due process or undergo certification re-qualification.
 - (A) Certification re-qualification shall consist of an entirely new filing certifying that the certificate holder possesses the technical and financial resources necessary to provide the proposed level of service.
 - (B) Any certification re-qualification must be filed at the commission before the expiration of the 48-month period.
- (g) **Reporting requirements.**
 - (1) All COA holders shall file an annual report with the commission by June 30 of each year using the commission-prescribed form Annual Information Reporting Requirements for a Service Provider Certificate of Operating Authority and/or a Certificate of Operating Authority. This form may be obtained from the commission's Central Records and the commission's website.
 - (2) If the certificate holder has any change during the year in the information requested in Section One of the annual report form, then the certificate holder shall file an updated form correcting the information in Section One within 30 days of the change.
 - (3) The completed annual report form shall be filed in the commission's Central Records in a project number designated annually by the Filing Clerk.
 - (4) A certificate holder shall also file annual reports as required by §26.89 of this title (relating to Information Regarding Rates and Services of Nondominant Carriers).
 - (5) A certificate holder shall also file monthly reports as required by §26.465 of this title (relating to Methodology for Counting Access Lines and Reporting Requirements for Certificated Telecommunications Providers) and §26.467 of this title (relating to Rates, Allocation, Compensation, Adjustments and Reporting.)
- (h) **Compliance enforcement.**
 - (1) **Administrative penalties.** If the commission finds that a certificate holder has violated any provision of this section, the commission shall order the certificate holder to take corrective action, as necessary, and the certificate holder may be subject to administrative penalties and other enforcement actions pursuant to PURA, Chapter 15.
 - (2) **Revocation or suspension.** If the commission finds that a certificate holder is repeatedly in violation of PURA or commission rules, the commission may suspend or revoke a COA certificate pursuant to PURA Chapter 17.
 - (3) **Enforcement.** The commission shall coordinate its enforcement efforts of fraudulent, unfair, misleading, deceptive, and anticompetitive business practices with the Office of the attorney general in order to ensure consistent treatment of specific alleged violations.

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§26.111. Standards for Granting Service Provider Certificates of Operating Authority (SPCOAs).

- (a) **Scope and purpose.** This section applies to the certification of persons and entities to provide, local exchange telephone service, basic local telecommunications service, and switched access service as holders of service provider certificates of operating authority, established in the Public Utility Regulatory Act (PURA), Chapter 54, Subchapter D. Through this section, the commission strives to protect the public interest against entities that are not qualified to provide local exchange telephone service, basic local telecommunications service, and switched access service. The commission's overall goal is to encourage the development of a competitive marketplace for local exchange telecommunications services, free of unreasonable barriers to entry, that will provide consumers with the best services at the lowest cost.
- (b) **Automatic disqualification.** This section contains the reasons that an applicant would be prohibited from acquiring an SPCOA. An applicant is disqualified from obtaining an SPCOA:
- (1) if the applicant is a municipality; or
 - (2) if the applicant, together with its affiliates, has more than 6.0% of the total intrastate switched access minutes of use as measured for the most recent 12-month period.
- (c) **Standards for granting certification to SPCOA applicants.**
- (1) The commission may condition or limit the scope of an SPCOA's service in at least the following ways:
 - (A) Facility-based;
 - (B) Resale-only;
 - (C) Data-only;
 - (D) Geographic scope;
 - (E) Some combination of the above, as appropriate.
 - (2) The commission shall consider the factors listed in subparagraphs (A) – (H) of this paragraph in deciding whether and how to condition or limit an SPCOA to an applicant proposing to serve an exchange:
 - (A) Whether the applicant has satisfactorily provided all of the information required in the application for an SPCOA.
 - (B) Whether the applicant is financially qualified as a facilities-based SPCOA. To prove financial qualifications as a facilities-based SPCOA, the applicant shall meet the standards set forth in §26.109(c)(1)(B) of this title (relating to Standards for Granting Certificates of Operating Authority).
 - (C) Whether the applicant is financially qualified as a resale-only SPCOA. To prove financial qualifications as a resale-only SPCOA, an applicant shall provide evidence sufficient to establish that:
 - (i) Applicant possesses the greater of \$25,000 cash or cash equivalent or sufficient cash or cash equivalent to meet start-up expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for the first year of its Texas operations; or
 - (ii) Applicant is an established business entity and is able to demonstrate evidence of profitability in existing operations for two years preceding the date of application by submitting a balance sheet and income statement audited or reviewed by a certified public accountant establishing all of the following:

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§26.111(c)(2)(C)(ii) continued

- (I) A long-term debt to capitalization ratio of less than 60%;
 - (II) A return-on-assets ratio of at least 10%; and,
 - (III) The greater of \$10,000 cash or cash equivalent or sufficient cash or cash equivalent to meet start-up expenses, working capital requirements and capital expenditures, liquid and readily available to meet the applicant's start-up expenses, working capital requirements and capital expenditures for the first year of its Texas operations.
- (D) Whether the applicant is technically qualified. The commission shall determine whether an applicant possesses sufficient technical qualifications to be awarded a facilities-based SPCOA certification or whether applicant should be restricted to a resale-only SPCOA certification, based upon a review of the following information.
- (i) Prior experience by the applicant or one or more of the applicant's principals or employees in the telecommunications industry or a related industry.
 - (ii) Any complaint and/or compliance history regarding the applicant, applicant's telecommunications or public utility affiliates, predecessors in interest, shareholders, and principals on file at the Public Utility Commission of Texas, the Office of the Texas Attorney General, the Attorney General in other states, and any other relevant regulatory agency for the previous two calendar years. If available, relevant information shall include, but not be limited to, the type of complaint, status of complaint, resolution of complaint, and the number of customers in each state where complaints have occurred.
 - (iii) If available, an affirmation that the applicant, its telecommunications or public utility affiliates, predecessors in interest, shareholders, and principals are in good standing at the Texas Comptroller's Office, active in the Texas Secretary of State files, and current in its Texas Universal Service Fund assessment.
 - (iv) A summary of any history of bankruptcy, dissolution, merger or acquisition of the applicant or any predecessors in interest in the two calendar years immediately preceding the application.
 - (v) A statement indicating whether the applicant has been notified that it is currently under investigation, either in this state or in another state or jurisdiction for violation of any deceptive trade or consumer protection law or regulation, and whether the applicant has been fined, sanctioned or otherwise penalized either in this state or in another state or jurisdiction for violation of any consumer protection law or regulation.
- (E) Whether the applicant is able to meet the commission's quality of service standards. The quality of service standards shall include, but not be limited to, 911 compliance and local number portability capability.
- (F) The applicant will be required to meet the customer protection rules and disclosure requirements applicable to certificate holders set forth in Chapter 26, Subchapter B of this title (relating to Customer Service and Protection).
- (G) Whether certification of the applicant is in the public interest.
- (H) If the applicant has requested to limit, or has been limited to data-only services, the applicant shall be waived from 911 and local number portability compliance as related to switched voice services. If the applicant intends to add voice services at a future date, the applicant must first file an amendment, subject to approval of the commission, which shows that the applicant is in compliance with all of the commission's quality of service standards.

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§26.111(c) continued

- (3) If, after considering the factors in this subsection, the commission finds it to be in the public interest to do so, the commission may limit the geographic scope of the SPCOA.
- (d) **Financial instruments that will meet the cash requirements established in this section.**
 - (1) Applicants for SPCOAs shall be permitted to use any of the financial instruments set out in subparagraphs (A)-(F) of this paragraph to satisfy the cash requirements established in this rule to prove financial qualification.
 - (A) Cash or cash equivalent, including cashier's check or sight draft.
 - (B) A certificate of deposit with a bank or other financial institution.
 - (C) A letter of credit issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission.
 - (D) A line of credit or other loan, issued by a bank or other financial institution, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission and payable on an interest-only basis for the same period.
 - (E) A loan issued by a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond certification of the applicant by the commission, and payable on an interest-only basis for the same period.
 - (F) A guaranty issued by a shareholder or principal of applicant, a subsidiary or affiliate of applicant, or a corporation holding controlling interest in the applicant, irrevocable for a period of at least 12 months beyond the certification of the applicant by the commission.
 - (2) To the extent that the applicant relies upon a loan or guaranty provided in paragraph (1)(E) or (F) of this subsection, the applicant shall provide evidence sufficient to establish that the lender or guarantor possesses sufficient cash or cash equivalent to fund the loan or guaranty.
 - (3) All cash and instruments listed in paragraph (1) (A) - (F) of this subsection shall be unencumbered by pledges as collateral and shall be subject to verification and review by the commission prior to certification of the applicant and for a period of 12 months beyond the date of certification of the applicant by the commission. Failure to comply with this requirement may void an applicant's certification or result in such other action as the commission deems in the public interest, including, but not limited to, assessment of reasonable penalties and all other available remedies under the Public Utility Regulatory Act.
- (e) **Name on certificates.**
 - (1) All local exchange telephone service, basic local telecommunications service, and switched access service provided under an SPCOA shall be provided in the name under which certification was granted by the commission. The commission shall grant the certificate in only one name.
 - (A) If the applicant is a corporation, the commission shall issue the certificate in the corporate or assumed name of the applicant.
 - (B) If the applicant is an unincorporated business entity or an individual, the commission shall issue the certificate in the assumed name of the entity or the individual.
 - (C) The commission shall review the requested name to determine if the name is deceptive, misleading, vague, inappropriate, or duplicative of an existing certificated telecommunications utility. If the commission determines that the requested name is deceptive, misleading, vague, inappropriate, or duplicative, it shall notify the applicant and the applicant shall modify the name to alleviate the commission's concerns. If the name is not adequately modified, the application may be denied.

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§26.111(e) continued

- (2) The holder of an SPCOA may request commission approval to change the name on the certificate by filing an application to amend its certificate with the commission
- (f) **Non-use of certificates.** Applicants will use their SPCOA certificates expeditiously.
- (1) An SPCOA certificate holder that has not provided service for a period of 12 consecutive months must provide a sworn affidavit to the commission on an annual basis attesting that they continue to possess the technical and financial resources necessary to provide the level of service proposed in their initial application.
- (2) An SPCOA certificate holder that has not provided service within 48 months of being granted the certificate by the commission, may have its certificate suspended or revoked, as defined by §26.114 of this title (relating to Suspension or Revocation of Certificates of Operating Authority (COAs) and Service Provider Certificates of Operating Authority (SPCOAs)), after due process, or undergo certification re-qualification.
- (A) Certification re-qualification shall consist of an entirely new filing certifying that the SPCOA holder possesses the technical and financial resources necessary to provide the proposed level of service.
- (B) Any certification re-qualification must be filed at the commission before the expiration of the 48-month period.
- (g) **Reporting requirements.**
- (1) All certificate holders shall file an annual report with the commission by June 30 of each year using the commission-prescribed form, *Annual Information Reporting Requirements for a Service Provider Certificate of Operating Authority and/or a Certificate of Operating Authority*. This form may be obtained from the commission's Central Records and the commission's website.
- (2) If the SPCOA holder has any change during the year in the information requested in Section One of the annual report form, then the SPCOA holder shall file an updated form correcting the information in Section One within 30 days of the change.
- (3) The completed annual report form shall be filed in the commission's Central Records in a project number designated annually by the Filing Clerk.
- (4) An SPCOA holder shall also file annual reports required by §26.89 of this title (relating to Information Regarding Rates and Services of Nondominant Carriers).
- (5) A certificate holder shall also file monthly reports as required by §26.465 of this title (relating to Methodology for Counting Access Lines and Reporting Requirements for Certificated Telecommunications Providers) and §26.467 of this title (relating to Rates, Allocation, Compensation, Adjustments and Reporting.)
- (h) **Compliance and enforcement.**
- (1) **Administrative penalties.** If the commission finds that an SPCOA holder has violated any provision of this section, the commission shall order the SPCOA holder to take corrective action, as necessary, and the SPCOA holder may be subject to administrative penalties and other enforcement actions pursuant to PURA, Chapter 15.
- (2) **Revocation or suspension.** If the commission finds that a certificate holder is repeatedly in violation of PURA or commission rules, the commission may suspend or revoke an SPCOA certificate pursuant to PURA Chapter 17.

CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS PROVIDERS.

Subchapter E. CERTIFICATION, LICENSING AND REGISTRATION.

§26.111(h) continued

- (3) **Enforcement.** The commission shall coordinate its enforcement efforts of fraudulent, unfair, misleading, deceptive, and anticompetitive business practices with the Office of the attorney general in order to ensure consistent treatment of specific alleged violations.

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

**INSTRUCTIONS FOR COMPLETING TELECOMMUNICATIONS PROVIDER
REGISTRATION FORM**

Please carefully read all sections of these instructions. Failure to correctly complete the form and produce necessary accompanying documents will delay the processing of your application for a Certificate of Public Good.

The Public Service Board requires an original and three copies of this application and all documentation. If any of this documentation is not filed with the Public Service Board, the application will be considered deficient and processing of it will be delayed. The application is not complete unless it includes the entire Registration Form, Sections A, B and C, and the final attestation.

Section A.

Item 1. Insert the applicant's name as registered and certified by the Vermont Secretary of State. The Secretary of State's website is <http://www.sec.state.vt.us>. The Secretary of State's mailing address is 109 State Street, Montpelier, Vermont 05609-1104, the physical address is 81 River Street, Montpelier, Vermont 05602, the phone number is 802-828-2386, and the fax number is 802-828-2853.

Item 2. Please include any and all names under which your company currently does business or proposes to do business. If your application is approved, you will be required to register any additional trade name that you wish to use in Vermont in the future with the Secretary of State and provide a copy to the Public Service Board (PSB).

Item 3. Please check off either yes or no.

Item 4. Insert the applicant's mailing address and phone number. If corporate address is different, please note this on a separate attachment, labeled as "Attachment A4." The address and phone number placed here should be the address the PSB and Department of Public Service (DPS or Department) will send their communications and annual report forms.

Item 5. Please provide the name, address, and telephone number of an individual who will be familiar with this application and whom staff members from the PSB and DPS can call with questions about the applicant's application.

Item 6. Certified telecommunications companies are required to file an annual report. Please provide the name, address, and telephone number of the person to whom the DPS would be sending the paperwork necessary to file the annual report, or indicate that it is the same person listed in item 5.

Item 7. The registered agent in Vermont is required for the Secretary of State Certificate of Authority Application Form. This is the agent the applicant has listed for service of process.

Item 8. The Vermont registered agent's address and telephone number as found on the Certificate of Authority Application Form as filed with the Vermont Secretary of State.

Item 9. The applicant's current directors and officers should be listed here along with their current business address. This information is also found on the Vermont Secretary of State Certificate of Authority Application Form. If additional space is needed, please attach a separate sheet identifying it as "Attachment A8."

Item 10. Although a proposed tariff is not required at this time, a brief summary of the applicant's services and operations should be listed here.

Item 11. Identify any other carriers that the applicant proposes to use to provide service.

Item 12. Make sure to list all states where the applicant has provided service in the past, even if it is no longer doing so.

Item 13. If the applicant proposes to limit CLEC service to certain counties, note this.

Item 14. If the applicant has never declared bankruptcy, the answer to this part would be no. However, if the applicant has declared bankruptcy, the answer would be yes, and the applicant must complete Part 1 of Section B.

Item 15. If the applicant has never been the subject of an investigation by a state or federal authority (other than an investigation into an application to provide service that was approved), the answer to this part would be no. If yes, the applicant must complete Part 2 of Section B.

Item 16. If the applicant has never been subject to fines, penalties or sanctions (monetary or otherwise) by a state or federal authority, the answer to this part would be no. If yes, the applicant must complete Part 3 of Section B.

Section B.

Item 1. Include the requested descriptions and documents as "Attachment B1."

Item 2. Make sure to describe each and every investigation for which this item requests a description. Include the requested descriptions and documents as "Attachment B2."

Item 3. Make sure to include the specific dollar amounts of any monetary penalties and a detailed description of any other penalties or sanctions. Include the requested descriptions and documents as "Attachment B3."

Section C.

Item 1. Please include a copy of the applicant's Certificate of Authority from the Vermont Secretary of State (See Section 1, item 1) and if the applicant intends to provide service by use of a tradename (i.e. d/b/a), a tradename Certificate from the Vermont Secretary of State is also required.

Item 2. Please include an organizational chart depicting the applicant's corporate structure including its parent company and all affiliates and subsidiaries. If more space is required, please attach a separate page as "Attachment C2."

Item 3. Please include a listing of those shareholders that have a 5% or more investment in the applicant. If more space is required please attach a separate page as "Attachment C3."

Item 4. Please provide a Disaster Recovery Plan. Such a plan must be filed with the Department every three years. An initial Plan is required for facilities-based carriers with this application.

Final Attestation.

The italicized section above the signature lines is a legally binding statement. The Vermont statutes and Board rules and the most important Board orders regarding telecommunications carriers can be found in the application package. **Please read and consider them and this statement carefully before signing.** This statement must be signed by an officer or a duly authorized agent of the company and notarized or the application will not be considered complete.

Telephone number

6. Name, address, and telephone number of person to receive annual report forms, if different than given in the response to item five:

Name

Address

City or town	State	ZIP Code
--------------	-------	----------

Telephone number

7. Name of registered agent in Vermont _____

8. Address of registered agent and telephone number:

Address

City or town	State	ZIP Code
--------------	-------	----------

Telephone number

9. Names and business addresses of current directors and officers:

Name and Position

Address

City or town	State	ZIP Code
--------------	-------	----------

Name and Position

Address

City or town	State	ZIP Code
--------------	-------	----------

Name and Position

Address

City or town	State	ZIP Code
--------------	-------	----------

10. A brief description of proposed Vermont operations and services _____

11. Proposed underlying carrier(s) _____

12. Other states where the applicant is registered and provides or has in the past provided telecommunications service:

13. Counties which the applicant intends to provide CLEC service, if any, within 24 months of obtaining authorization: ¹

14. Has the applicant ever filed for bankruptcy? If yes, please complete Part 1 of Section B.

15. Has the applicant ever been or is the applicant currently the subject of an investigation (excluding an investigation into an application to provide service that was approved) by a state or federal authority? If yes, please complete Part 2 of Section B.

16. Has the applicant ever been or is the applicant currently subject to any fines, penalties, or sanctions imposed by a state utility commission, a state attorney general, or the federal authority? If yes, please complete Part 3 of Section B.

1. The Board will be able to use the information contained in these filings as indicia of the ongoing levels of competition for basic exchange and other services.

Section B.**1. Bankruptcy**

If applicant has filed for or is currently filing for bankruptcy, please describe the procedural status of the case, and provide all information (including applicable orders, or final order) concerning that proceeding.

2. Investigation of Applicant

If applicant has ever been or is currently the subject of an investigation by a state or federal regulatory authority, please describe the procedural status of the case. Also, provide a copy of the notice of investigation if the proceeding is pending, or final order or settlement agreement if the proceeding has concluded.

3. Fines or Penalties Imposed Upon Applicant

If applicant has ever been or is currently subject to any fines, penalties, or sanctions imposed by a state utility commission, a state attorney general, or federal agency, please describe the associated incident(s) and the fines, penalties, or sanctions. Also, provide a copy of the appropriate order or notice of sanctions.

Section C.**Necessary Accompanying Documentation**

1. Vermont Secretary of State certificate of authority and, if applicable, tradename registration.
2. Description of applicant company's corporate structure and affiliates.
3. List of shareholders having a beneficial interest in 5% or more of applicant's securities.
4. *Disaster Recovery Plan*² a triennial filing with the DPS (for facilities-based providers).

2. This would cover repair contingencies, mutual aid agreements, equipment inventory plans, power replacement strategies, communications and customer service plans.

Attestation

The applicant agrees to participate in Vermont's Lifeline Program, and to comply with Vermont statutes and PSB rules and orders regarding telecommunications carriers and the provision of telecommunications services,³ and it attests that it has financial and managerial ability to provide telecommunications service in Vermont and that it has examined the foregoing information and that the information is correct and complete.

BY: _____
Officer or Duly Authorized Agent of Company

[PRINT NAME]

This document was signed in my presence on the _____ day of

_____, _____.

Notary Public

[PRINT NAME]

3. Including, but not limited to, service quality, consumer protection, privacy, E-911 financing and provision, compatibility with telephone relay system, universal service and funding, and carrier of last resort requirements.

Frequently Asked Questions

by Telecommunications Companies Seeking a Certificate of Public Good

- [What is a Certificate of Public Good?](#)
 - [What is the difference between the Public Service Board and the Department of Public Service?](#)
 - [If my company obtains a CPG, can I immediately start doing business?](#)
 - [Is there a fee for filing an application for a CPG?](#)
 - [Will my company pay an additional assessment?](#)
 - [Will my company be required to pay into a state Universal Service Fund?](#)
 - [Once my company is certified, what are the annual reporting requirements?](#)
 - [Where can I get information about the requirements for tariff filings?](#)
 - [Can my company submit a tariff for approval with my CPG application?](#)
 - [If my company has a CPG to provide in-state toll service, does it need a separate CPG to provide local service?](#)
 - [Can my company file one CPG registration form for both local and in-state toll service?](#)
 - [Can my company use an out-of-state attorney or agent to file a CPG application?](#)
 - [How long will the review process take after my company files its application?](#)
 - [Does my company need Board approval for financing, or stock or asset transfers?](#)
 - [Does my company need Board approval to change its corporate name, or to add a trade name?](#)
 - [Are there policies not found in Vermont Statutes and Vermont Public Service Board Rules about which my company should be aware?](#)
-

What is a Certificate of Public Good?

A Certificate of Public Good ("CPG") is a document issued by the Public Service Board under [30 V.S.A. § 231](#) which authorizes a company to own or operate a telecommunications business in Vermont. A company wishing to provide telecommunications services in Vermont must first obtain a CPG from the Public Service Board. The Public Service Board issues CPGs only upon finding that the operation of the telecommunications business will serve the general good of the state.

What is the difference between the Public Service Board and the Department of Public Service?

The Vermont Public Service Board is a quasi-judicial board that supervises the rates, quality of service, and overall management of Vermont's cable television companies and public utilities. The Public Service Board exercises its regulatory functions through in-house reviews of filed contracts, tariffs, and compliance filings, contested hearings, and agency rulemakings. It reviews formal complaints brought either directly by individuals or groups of consumers, or through the Department of Public Service. The Public Service Board may be reached at:

112 State Street, Drawer 20

Montpelier, VT 05620-2701

Phone: (802) 828-2358

Fax: (802) 828-3351

TTY (VT Relay): (800) 253-0191

psb.clerk@state.vt.us

<http://www.state.vt.us/psb>

The Vermont Department of Public Service is the administrative agency charged with representing the public interest through its Public Advocacy Division in public utility cases before the Public Service Board, federal regulatory agencies, and state and federal courts. The Department's Planning Division plans for the state's telecommunications needs through the *Vermont Telecommunications Plan*. The Department of Public Service receives and reports on informal consumer complaints through its Consumer Affairs and Public Information Division (CAPI), resolving individual disputes through informal advocacy with the utility and making recommendations on consumer protections and enforcement action when needed. CAPI also provides information for consumers about industries regulated by the Board through publications and the media. The Department's Telecommunications Division coordinates the Department's telecommunications-related activities and has primary responsibility for developing the Department's recommendations to the Public Service Board on filings made by telecommunications companies. You can reach the Department of Public Service at:

112 State Street, Drawer 20 Montpelier, VT 05620-2601

Phone: 802-828-2811

Fax: 802-828-2342

TTY (VT): 800-734-8390

vtdps@psd.state.vt.us

<http://www.state.vt.us/psd>

If my company obtains a CPG, can I immediately start doing business?

No. You must first file and obtain approval of an initial tariff describing your rates, and terms and conditions of service.

Is there a fee for filing an application for a CPG?

No.

Will my company pay an additional assessment?

DDM 000750

If your company's CPG is approved, you will need to pay annually to the Department of Public Service .0050 of your company's gross operating revenue derived from business in Vermont (whether the business is intrastate or interstate telecommunications service) or \$500, whichever is greater, even if you have no approved tariff or no customers. The gross revenue tax must be paid at the same time the annual report is filed (see below). If you still have remaining questions on the gross revenue tax, you may contact the Department's Economics Division at 802-828-2811.

Will my company be required to pay into a state Universal Service Fund?

Yes. The Universal Service Fund was created by the Legislature in 1993 to fund several programs. Today, these programs include the Lifeline Program for low income consumers, the Vermont Telecommunications Relay Services (VTRS) for deaf, hearing impaired and speech impaired people, the development of a statewide enhanced 911 system, and, if authorized in the future, funding to lower local phone bills in especially high-cost areas of the state.

All these programs are funded by the Universal Service Fund surcharge on consumers' phone bills, which carriers collect and remit to the fiscal agent. By state law, the charge cannot exceed two percent of the consumer's phone bill. The specific rate is set annually by the Board and is posted on the Public Service Board's [home page](#). You may also obtain a remittance package and other information from the [contracted fiscal agent](#) for the Fund.

Carriers should also note that the Public Service Board has ordered two notices be placed in consumer's bills annually, one in July or August announcing any change in the VUSF surcharge rate, and one in January or February which serves as an outreach reminder about Lifeline and other VUSF programs. These notices can be obtained from the [contracted fiscal agent](#).

Once my company is certified, what are the annual reporting requirements?

There are two important reporting requirements applicable to telecommunications companies in Vermont.

First, companies must file an annual report with the Department of Public Service and the Public Service Board as required by [30 V.S.A. § 22](#). In January, the Department of Public Service will mail a blank annual report to your company representative. (Review a sample [here](#).) The report must be fully completed. The report contains informational items, a balance sheet, and an income statement. This report must be completed and returned to the Department of Public Service no later than April 15. You may request a two-month extension in writing, addressed to the Economics Division. A copy of the report must also be filed with the Board. If the Company has a specific company representative who should receive this report, please include this person's name, phone number, and address in your registration form. The gross revenue tax, which is the greater of .0050 of gross operating revenue or \$500.00, must be paid at the same time the annual report is filed. For more information on the annual report you may contact the Department's Economics Division at 802-828-2811.

Second, the Public Service Board adopted service quality standards for telecommunications companies in Docket No. 5903 ([order of 7/2/99](#)). Companies must track their performance against those standards on a monthly basis and report the results of the performance on a quarterly basis to the Board and the Department. For more information on the service quality standards and quarterly reporting requirement,

please see the Department's service quality reporting [form](#), [instructions](#), and [notice to customers](#).

Where can I get information about the requirements for tariff filings?

Please see the Public Service Board's [information package](#) about filing tariffs.

Can my company submit a tariff for approval with my CPG application?

No tariff will be considered for approval until after your company has received a CPG. After your company receives a CPG, it will be required to file with the Public Service Board any tariff it wishes to have approved.

If my company has a CPG to provide in-state toll service, does it need a separate CPG to provide local service?

No. Your company will need to petition the Public Service Board for an amendment to your existing CPG to reflect authorization to provide service to the local exchange.

Can my company file one CPG registration form for both local and in-state toll service?

Yes.

Can my company use an out-of-state attorney or agent to file a CPG application?

Yes.

How long will the review process take after my company files its application?

While there is no statutory deadline for review of CPG applications, routine applications will be completed in three months on average. Failure to correctly complete the registration form will delay the processing of your application for a Certificate of Public Good.

Does my company need Board approval for financing, or stock or asset transfers?

If your company is incorporated in Vermont, you must get Public Service Board approval for financing. For further information about this requirement refer to [30 V.S.A. § 108](#).

All companies, whether incorporated in Vermont or not, must obtain Public Service Board approval of any sale, lease or series of sales or leases made within one calendar year of property comprising more than ten percent or more of property in the state which is used in or required to provide service. See [30 V.S.A. § 109](#) for more information about this requirement.

Finally, [30 V.S.A. § 107](#) mandates that the Public Service Board approve any stock or security transfer that would result in a direct or indirect transfer of control of a company subject to the Board's jurisdiction.

Does my company need Board approval to change its corporate name, or to add a trade name?

A company name change requires Public Service Board approval whereas the use of a trade

name only requires that the company file with the Board a copy of the Vermont Secretary of State authorization to use the trade name.

Are there policies not found in Vermont Statutes and Vermont Public Service Board Rules about which my company should be aware?

Yes. The Public Service Board has issued orders in several dockets of which any prospective applicant should be aware. These include Dockets 6255 ([Order of 7/28/99](#)), 6012 ([Order of 12/28/99](#)), 5903 ([Order of 7/2/99](#)), 5713 ([Order of 5/2/96](#), [Order of 8/20/97](#), and [Order of 2/4/99](#)), and 5566 ([Order of 1/6/95](#)).

The Vermont Statutes Online

Title 30: Public Service

Chapter 5: POWERS AND DUTIES OF DEPARTMENT OF PUBLIC SERVICE

30 V.S.A. § 231. Certificate of public good; abandonment of service; hearing

§ 231. Certificate of public good; abandonment of service; hearing

(a) A person, partnership, unincorporated association, or previously incorporated association, which desires to own or operate a business over which the public service board has jurisdiction under the provisions of this chapter shall first petition the board to determine whether the operation of such business will promote the general good of the state, and shall at that time file a copy of any such petition with the department. The department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the department requests a hearing on the petition, or, if the board deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition, and shall make an order for the publication of the substance thereof and the time and place of hearing two weeks successively in a newspaper of general circulation in the county to be served by the petitioner, the last publication to be at least seven days before the day appointed for the hearing. The director for public advocacy shall represent the public at such hearing. If the board finds that the operation of such business will promote the general good of the state, it shall give such person, partnership, unincorporated association or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the board may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the board whether or not regulation thereunder has been reduced or suspended, under section 226a or 227a of this title.

(b) A company subject to the general supervision of the public service board under section 203 of this title may not abandon or curtail any service subject to the jurisdiction of the board or abandon all or any part of its facilities if it would in doing so effect the abandonment, curtailment or impairment of the service, without first obtaining approval of the public service board, after notice and opportunity for hearing, and upon finding by the board that the abandonment or curtailment is consistent with the public interest; provided, however, this section shall not apply to disconnection of service pursuant to valid tariffs or to rules adopted under section 209(b) and (c) of this title. (Amended 1959, No. 329 (Adj. Sess.), § 39(b), eff. March 1, 1961; 1975, No. 212 (Adj. Sess.), § 2; 1979, No. 204 (Adj. Sess.), § 34, eff. Feb. 1, 1981; 1987, No. 87, § 8; 1995, No. 99 (Adj. Sess.), § 9; 1999, No. 157 (Adj. Sess.), § 10.)

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG No. 552-CR

Petition of Maxcess, Inc. for a certificate of public)
good to operate as a provider of telecommunications)
services in Vermont, including service to the local)
exchange

Order entered: 5/10/2000

I. INTRODUCTION

Maxcess, Inc. ("Maxcess" or the "Company" or "Petitioner") requests issuance of a certificate of public good ("CPG"), pursuant to 30 V.S.A. § 231, to provide intrastate telecommunications service in Vermont, including service to the local exchange. In this Order, the Vermont Public Service Board ("Board") concludes that Maxcess should be issued a CPG as requested to allow the Company to begin operating as a telecommunications carrier within the State of Vermont.

II. PROCEDURAL HISTORY

On November 12, 1999, Maxcess, pursuant to 30 V.S.A. § 231 and the rules and regulations of the Board, filed a Competitive Local Exchange Registration Form ("Registration Form") and the required accompanying documentation, pursuant to the process outlined in the Board's Order of February 4, 1999, in Docket No. 5713¹, seeking a CPG to offer resold facilities-based local and interexchange telecommunications services in the State of Vermont.² On December 7, 1999, the Vermont Department of Public Service ("Department") filed a letter with the Board in which it recommended that a CPG be granted without the need for investigation or hearings.

The Board has reviewed the petition and accompanying documents and agrees that a CPG should be issued without hearing. As a result, newspaper publication is not required prior to issuance of the CPG. 30 V.S.A. §§ 102(a), 231(a).

Based upon the Registration Form and accompanying documents, the Board makes the following findings.

-
1. Docket 5713, Order of 2/4/99 at 63-64 and Appendix B.
 2. Competitive Local Exchange Company Registration Form at 1.

III. FINDINGS

1. Maxcess has all the necessary authority to transact business in Vermont. Maxcess is organized under the laws of the State of Florida. Registration Form at 1.
2. Maxcess proposes to provide all forms of local and long distance telecommunications services on a resale, lease and facilities-based basis throughout Vermont. Registration Form at 2.
3. Maxcess is currently providing telecommunications services in Florida. Registration Form at 3.
4. Maxcess has provided the necessary documentation regarding management structure and financial information. Registration Form at Exhibits 2 and 4.
5. Maxcess has not filed for bankruptcy and has never been the subject of an investigation by a state or federal authority. Registration Form at 3.
6. Maxcess intends to serve all the counties in Vermont within twenty-four months of obtaining authorization. Registration Form at 3.

IV. DISCUSSION

Sections 102 and 231 of Title 30, V.S.A., require that a CPG be issued before a company can offer telephone service to the public in Vermont. Such entry regulation statutes were traditionally designed for two purposes. The first is to protect consumers against incompetent or dishonest businesses. The second is to protect existing providers by limiting or eliminating their competitors. See, e.g., Docket No. 5012, Petition of Burlington Telephone Company, Order of 5/27/86.

The first rationale for entry regulation -- "consumer protection" -- remains one of the Board's policy objectives. Having reviewed the petition of Maxcess and all related materials, the Board concludes that the evidence does not demonstrate that the technical, managerial and financial resources are inadequate. When combined with alternatives available in a competitive marketplace and recognizing that consumers are free to use another competitor's services with minimal transaction cost, we conclude that concerns for consumer protection

have been sufficiently addressed. Concerns for consumer protection are, therefore, not cause for rejection of Maxcess' petition nor do they warrant an investigation at this time.

The second -- or "franchise protection" -- rationale was rejected by the Board, after careful consideration in Docket No. 4946. In that Docket's Order of February 21, 1986, the Board concluded that, despite all its dangers and inherent drawbacks, the public benefits of competition outweighed any flaws, and that competition should be permitted in Vermont's markets for message telephone service and other communications services.

Vermont policy, established by the Board and enunciated through the State Telecommunications Plan ("Plan") (adopted by the Department), has firmly supported opening the local exchange market to competition. This policy has been reaffirmed by the Board in Docket 5713, the Board's investigation into competition in the telecommunications arena and Docket 5909, in which the Board authorized Hyperion Telecommunications of Vermont, Inc. ("Hyperion") to provide local exchange competition.³

The Board's support for competitive entry is consistent with the state's telecommunications policies as set out in the State Telecommunications Plan ("Plan"). That Plan clearly states that competition is the preferred strategy to achieve Vermont's goals of reasonable price, availability and high quality of service provided that there is adequate assurance that the needs of all consumers will be met. The Plan also encourages the Board to create a "framework to facilitate competition, while assuring affordable basic service rates, high quality of service, consumer protection, and universal service via interconnection agreements and Docket No. 5713 investigation and decisions."⁴ The Board has moved to establish such a framework in various rulings over the last several years.

Federal law also applies to the broader questions of competitive entry. Under Section 253(a) of the Telecommunications Act of 1996 ("Act") which amended the Communications Act of 1934, states may not "prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." States retain authority, however, to:

3. Docket 5713, Order of 5/29/96 at 13 (later stages of that proceeding will further define the framework for telecommunications competition within the state); Docket 5909, Order of 1/14/97.

4. Vermont Telecommunications Plan (dated December 1996) at iii.

impose, on a competitively neutral basis and consistent with Section 254 [47 U.S.C.A. § 254], requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.⁵

Thus, federal law makes clear that states cannot bar competitive entry. State commissions may still require new service providers to obtain franchises (or, in Vermont, CPGs), although they may not use that authority to prohibit all competitive entry.⁶ Vermont also may continue to impose competitively neutral conditions to achieve the purposes enunciated in Section 253(b).

At the present time, however, the Board has not fully investigated the conditions that should apply to entry into local exchange competition. In Docket 5909, the Board concluded that, in general, conditions related to competitive entry could be deferred to Docket 5713 (and its successor dockets). In Docket 5909, the Board included a specific condition in Hyperion's CPG making clear that Hyperion must comply with any conditions related to competitive entry imposed in subsequent Board proceedings. The Board sees no reason to deviate from that policy here and recommends inclusion of a similar provision in Maxcess' CPG.

The Company should also be aware of the Board's policy regarding the provision of operator services, should the Company, in the future, choose to offer these services. As a substantive matter, the Board has previously found that, for carriers such as the Company that do not possess market power, there is little need for cost-of-service or rate-of-return regulation in order to meet the statutory criterion of just and reasonable rates. There is an exception regarding regulation of rates, however, with respect to rates for operator services. In our Order of 1/6/95 in Docket No. 5566, Generic Investigation into the Regulation of Public Telephone and Operator Service Providers in Vermont, we noted that "customers who are not expert in the rapidly changing field of telecommunications . . . stand to be taken advantage of in an imperfect market, where rates are unregulated, may be extraordinarily high and may be incurred by the end user without the equivalent of his knowledgeable consent." Docket No. 5566, Order of 1/6/95 at 101. Consequently, we mandated rate caps for operator services, set at the rates charged by New England Telephone and Telegraph Company. No reseller may

5. 47 U.S.C.A. § 253(b).

6. *In the Matter of Classic Telephone, Inc.*, Memorandum Opinion and Order, FCC CCBPol 96-10 at paragraph 28 (October 1, 1996).

authorize or bill surcharges not set out in New England Telephone's tariff. We limited this requirement, however, as follows: "(1) the rate cap shall apply to calls (except dial-around calls) made from aggregator and other transient locations; (2) the rate cap shall not apply to calls from those locations where the subscriber selecting the presubscribed OSP carrier is also the person or entity who will be paying the bill; and (3) the rate cap will not apply to dial-around calls, which involve services selected by the caller and outside the control of the presubscribed AOS provider." *Id.*

Additionally, the Company should be aware of the Board's policy in connection with the provision of prepaid calling card service. The Board has imposed such a requirement on new entrants into the Vermont market that provide only debit prepaid calling card services. See C.P.G. No. 145, Order of 7/13/94, and C.P.G. No. 146, Order of 8/17/94. As we noted in our Orders in C.P.G. Nos. 145 and 146, the public utilities commissions of several states have expressed concern about the potential risks to consumers associated with payment in advance of receipt of service, and we have the same concern.⁷ Consequently, we ordered World Telecom Group and Quest Telecommunications Inc. to post a bond, payable to the Board, in an amount equal to their projected Vermont intrastate revenues for the first 12 months of operation. We also stated that we would examine the issue of whether this requirement should be instituted on an industry-wide basis in our informal rulemaking proceeding.

We make a distinction, however, between new entrants into the Vermont market that provide only debit card service, and long-term participants (such as AT&T) that offer a multitude of services and that simply seek to add debit card service to their choice of service offerings. For this latter group, we do not impose a bond requirement, on the theory that the provider is already established in Vermont, offers several services that are provided on an on-going basis, and would be unlikely to "take the money and run."

7. In this regard, we note that the DPS has asked several other prospective providers of debit cards to comply with more than 30 separate suggested requirements designed to protect consumers. See, e.g., C.P.G. #156, Petition of IDB WorldCom Services, Inc., Letter from DPS to IDB WorldCom Services, Inc. dated May 26, 1994. In its letter to IDB WorldCom, the DPS states that its suggested requirements are "merely a guideline to certain consumer protection concerns" and are not required by the Public Service Board. *Id.* at 3. We confirm that we have not endorsed the requirements suggested by the DPS. However, we will review the DPS' proposed requirements and, if appropriate, may consider including some of them in our draft rules.

Since we do not know how much of its business will be devoted to prepaid calling card services, we conclude that the most sensible approach is to inform the Company that should it decide to include the provision of debit cards among its service offerings, it will be required to post a bond, payable to the Board, in an amount equal to its projected Vermont intrastate revenues from its prepaid calling card services, for the first 12 months of operation. This approach will be fair to the Company, fair to the public, and consistent with the theory that underlies the Board's treatment of other telecommunications providers offering debit card services.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Based on the above findings, discussion and conclusion, the provision of intrastate telecommunications services, including service to the local exchange, by Maxcess, Inc. ("Maxcess") will promote the general good of the State of Vermont, pursuant to the provisions of 30 V.S.A. § 231. A certificate of public good ("CPG") shall be issued to that effect, subject to the conditions contained in the CPG.
2. Prior to offering telecommunications service in Vermont, Maxcess shall file a tariff for intrastate service. Maxcess shall publish, in two newspapers of general circulation, tariff summaries approved by the Department of Public Service, within such time as the Board directs, in compliance with 30 V.S.A. § 225(a). Maxcess's tariff shall include terms and conditions making available unbundled service elements necessary for the provision of enhanced 911 service, as required by 30 V.S.A. § 7055(e). Such tariff shall become effective forty-five days from the date of filing, absent further order by the Board or appropriate motions by the Department of Public Service or affected parties.
4. If Maxcess at any time in the future proposes to offer operator services, it shall be required to comply with the Order of 1/6/95 in Docket No. 5566, Generic Investigation into the Regulation of Public Telephone and Alternative Operator Services in Vermont, and any future orders in that docket.

5. If Maxcess at any time in the future proposes to offer prepaid calling card services, it shall post a bond, payable to the Board, in an amount equivalent to its projected intrastate revenues from its prepaid calling card service for the first twelve (12) months of operation.

6. If Maxcess intends to do business in the State of Vermont under any name other than the name in use on the date of the Order in this Docket, it shall file a notice of the new trade name with the Clerk of the Board and the Department of Public Service at least fifteen days before commencing business under the new trade name.⁸

Dated at Montpelier, Vermont, this 10th day of May, 2000.

<u>s/Michael H. Dworkin</u>)	
	)	PUBLIC SERVICE
)	
<u>s/Suzanne D. Rude</u>	)	BOARD
)	
	)	OF VERMONT
<u>s/David C. Coen</u>)	

OFFICE OF THE CLERK

FILED: May 10, 2000

ATTEST: s/Susan M. Hudson
Clerk of the Board

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.

8. For a corporate name change, see 11 V.S.A. § 4.01 and 30 V.S.A. § 231. Petitioners may wish to contact the Clerk of the Board for assistance.

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG No. 552-CR

Petition of Maxcess, Inc. for a certificate of public)
good to operate as a provider of)
telecommunications services in Vermont,)
including service to the local exchange)

Entered: 5/10/2000

CERTIFICATE OF PUBLIC GOOD
ISSUED PURSUANT TO 30 V.S.A. SECTION 231

IT IS HEREBY CERTIFIED that the Public Service Board of the State of Vermont ("Board") on this day finds and adjudges that the issuance of a certificate of public good ("CPG") to Maxcess, Inc. ("Maxcess") and that the provision of telecommunications services, including local exchange service, by Maxcess will promote the general good of the State of Vermont, subject to the following conditions:

5. Maxcess is subject to the provisions of Title 30, Vermont Statutes Annotated, to the same extent as other regulated utilities.
6. Prior to offering any telecommunications service in Vermont, Maxcess shall file tariffs as required by 30 V.S.A. § 225(a).
7. Maxcess shall terminate all telecommunications traffic routed to its customers by any telecommunications carrier with which Maxcess interconnects.
8. Maxcess shall file with the Board all of its contracts for intrastate service with Vermont customers. All information in such contracts shall be public except individual customer data.
9. Maxcess may participate in any Board investigation into local competition and/or competitive access services. Maxcess shall be bound to comply with any lawful requirement imposed by the Board in Docket 5713 (and follow-on proceedings), Docket 5903, and Docket 5918, any docket or rule established with respect to E-911 service, and any other docket or rulemaking proceeding governing the obligations of telecommunications carriers in Vermont.
10. Maxcess' books, accounts, statements, and other financial records shall, in accordance with Vermont law, be made available for examination by the Board or the Department of Public Service.

11. This CPG may not be transferred to any other party without prior approval by the Board.

12. If Maxcess does business in the State of Vermont under a name other than the name in use on the date of the Order in this Docket, it shall file a notice of the new trade name with the Clerk of the Board and the Department of Public Service at least 15 days prior to commencing business under the new trade name.⁹

13. If Maxcess at any time in the future proposes to offer operator services, it shall be required to comply with the Order of 1/6/95 in Docket No. 5566, Generic Investigation into the Regulation of Public Telephone and Alternative Operator Services in Vermont, and any future orders in that docket.

14. If Maxcess at any time in the future proposes to offer prepaid calling card services, it shall post a bond, payable to the Board, in an amount equivalent to its projected intrastate revenues from its prepaid calling card service for the first twelve (12) months of operation.

DATED at Montpelier, Vermont, this 10th day of May, 2000.

<u>s/Michael H. Dworkin</u>)	
	)	PUBLIC SERVICE
)	
<u>s/Suzanne D. Rude</u>	)	BOARD
)	
	)	OF VERMONT
<u>s/David C. Coen</u>)	

OFFICE OF THE CLERK

FILED: MAY 10, 2000

ATTEST: s/Susan M. Hudson
Clerk of the Board

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

9. For a corporate name change, see 11 V.S.A. § 4.01 and 30 V.S.A. § 231. Petitioner may wish to contact the Clerk of the Board for assistance.

1909



2009

WILLIAMS MULLEN

CLERK'S OFFICE

2009 OCT 16 A 10:46

DOCUMENT CONTROL

David L. Dallas, Jr.
Direct Dial: 434.951.5707
ddallas@williamsmullen.com

October 15, 2009

VIA FEDERAL EXPRESS

Joel H. Peck, Clerk of the Commission
Attn: Document Control Center
Office of the Clerk
Tyler Building, 1st Floor
1300 E. Main St.
Richmond, Virginia 23219

Re: Fiber Roads, LLC
Application for Certificate of Public Convenience and Necessity

Dear Mr. Peck:

PUC-2009-00061

Fiber Roads, LLC ("Fiber Roads"), through counsel, hereby submits an original and fifteen (15) copies of the confidential version of Fiber Roads's Application for Certificate of Public Convenience and Necessity (the "Application"), and an original and one copy of the public version of the Application. Each confidential submission is provided in a separate sealed and labeled envelope. Fiber Roads shall separately submit a Motion for Protective Order. Also enclosed is a stamp and return copy of the Application. Please date-stamp this copy of the Application and return it to our office in the enclosed self-addressed stamped envelope.

Please contact the undersigned if you have any questions regarding this filing.

Respectfully,

David L. Dallas, Jr.
Counsel to Fiber Roads, LLC

Enclosures

cc: Division of Communications
Division of Economics
Office of General Counsel
Jeffrey W. Cornejo
Benjamin D. Arden, Esquire

6955611_1.DOC

A Professional Corporation

NORTH CAROLINA • VIRGINIA • WASHINGTON, D.C. • LONDON
321 East Main St., Suite 400 Charlottesville, VA 22902-3200 Tel: 434.951.5700 Fax: 804.783.6507 or 434.817.0977
www.williamsmullen.com

DDM 000765

**BEFORE THE
COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

Application of)
)
FIBER ROADS, LLC)
)
For a Certificate of Public Convenience)
and Necessity to Provide Local Exchange)
Services in the Commonwealth of Virginia)

Case No. PUC-2009- 00061

APPLICATION OF FIBER ROADS, LLC

Fiber Roads, LLC (“Fiber Roads” or “Applicant”), through counsel, pursuant to §§ 56-265.4:4(B) and (C) of the Code of Virginia, 20 VAC 5-417-10 – 80 of the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers and 5 VAC 5-20-80 A of the Rules of Practice and Procedure, respectfully requests a Certificate of Public Convenience and Necessity to authorize Fiber Roads to provide local exchange telecommunications services (“Local Exchange Services”) throughout the Commonwealth of Virginia.¹

In support of its application, Fiber Roads submits the following:

1. Company Contact Information:

Fiber Roads, LLC
321 East Main Street
Suite 200
Charlottesville, VA 22902
Telephone: 434.951.7996

¹ Fiber Roads will initially offer only high-speed broadband Internet access services. Fiber Roads requests authority to provide Local Exchange Services to obtain the authority to, in the future, offer such services in combination with its broadband Internet access services.

2. Related Entities Contact Information:

Parent Company:²

Apparent Wind, Inc.
321 East Main Street
Suite 200
Charlottesville, VA 22902

Related Company:

Blue Ridge Websoft, LLC
d/b/a Blue Ridge Internet Works
321 East Main Street
Suite 200
Charlottesville, VA 22902
Telephone: 434.817.0707
Toll Free: 877.658.4146
Fax: 434.817.0740
Email: info@briworks.com
Web: www.briworks.com

3. Counsel and Contact Information:

Fiber Roads is represented by:

David L. Dallas, Jr., Esq.
Williams Mullen, A Professional Corporation
321 East Main Street
Suite 400
Charlottesville, VA 22902
Telephone: 434.951.5707
Fax: 434.817.0977
Email: ddallas@williamsmullen.com

² Apparent Wind is a holding company and does not conduct any separate business functions.

Inquiries from the Commission regarding this application, as well as the continuing operations of Fiber Roads, may also be directed to Fiber Roads's primary in-house regulatory contact:

Jeffrey W. Cornejo
Fiber Roads, LLC
321 East Main Street
Suite 200
Charlottesville, VA 22902
Telephone: 434.951.7996
Toll Free: 888.625.4458
Fax: 434.817.0740
Email: regulatory@fiberroads.com

4. Organization:

Applicant is a limited liability company organized under the laws of the Commonwealth of Virginia. A copy of Fiber Roads' Articles of Organization and Certificate of Organization are attached hereto at Exhibit A. The officers of Fiber Roads are as follows: (1) Jeffrey W. Cornejo, President and Treasurer; and (2) William B. Fooks, CEO and Secretary. Fiber Roads is a wholly-owned subsidiary of Apparent Wind, Inc. ("Apparent Wind"). The officers and directors of Apparent Wind are as follows: (1) Jeffrey W. Cornejo, Director, President and Treasurer; and (2) William B. Fooks, Director, CEO and Secretary. Apparent Wind is also the parent company of Blue Ridge Websoft, LLC (d/b/a Blue Ridge InternetWorks) ("BRI"), a leading Information Technology ("IT") company operating in the Commonwealth of Virginia since 2001. BRI was co-founded by Mr. Cornejo and Mr. Fooks. The officers of BRI are as follows: (1) Jeffrey W. Cornejo, Vice-President, Secretary and Treasurer; and (2) William B. Fooks, President and CEO.

BRI offers network consulting and services, managed Internet hosting services, and is a Cisco Premier Certified Partner. BRI is a Microsoft Certified Partner and

Authorized Application Service Provider, enabling BRI to offer industry leading Microsoft solutions such as Microsoft Exchange, Microsoft SharePoint, Microsoft Office, Microsoft SQL Server, and Microsoft Commerce Server. BRI maintains its own data center and hosting facility in Charlottesville's Downtown Business Center.

BRI also operates a specialty service division that caters to a unique growing network need. BRI provides industry-leading wholesale Internet solutions for the multi-tenant unit industry. BRI has operated broadband Internet services for apartment complexes in Virginia and Georgia through its TenantSurf division.

5. Financial Ability:

Applicant has the financial ability necessary to provide Local Exchange Services in Virginia. Fiber Roads will rely initially on the financial resources of BRI, a company that shares common ownership with Fiber Roads. BRI provided the initial capitalization for Fiber Roads and will continue to provide additional financial support, as required, until such time as Fiber Roads is able to produce revenues sufficient to support its continued operation. Financial information of BRI, as required by 20 VAC 5-417-20 G 1, is provided at Confidential Exhibit B. Because BRI is a private company, Applicant requests that the financial information in Confidential Exhibit B, filed separately under seal, be treated as confidential and not made a part of the public record, and will separately file a Motion requesting the issuance of a Protective Order.

Applicant acknowledges that it is required to maintain a continuous surety bond of at least \$50,000 (as prescribed by the Commission Staff), and certifies that it will provide the Commission with such a bond within 30 days following the issuance of an Order for Notice and Comment in this proceeding.

6. Managerial and Technical Ability:

Applicant has the managerial and technical qualifications necessary to provide Local Exchange Services. Fiber Roads's senior management team (Mr. Cornejo and Mr. Fooks), as detailed below, has extensive experience in the telecommunications industry, both from a managerial and technical standpoint.

Mr. Cornejo has extensive experience in many aspects of the IT arena, including networks, operating systems, databases, programming languages, project management, design, and development methodologies. At BRI, Mr. Cornejo is responsible for providing customers with the best technological strategies by drawing on his experience with large business information systems, Internet technologies, and business processes. Prior to co-founding BRI, he was the Director of Information Technology Systems at Crutchfield Corporation, the nation's leading catalog and Internet supplier of audio and video products for car and home. In this position he was responsible for designing and maintaining Crutchfield's computing, networking, and telecommunications infrastructure across multiple call centers and distribution centers.

Prior to co-founding BRI, Mr. Fooks served both as President of Internet service provider ("ISP") RLC Internet and Chief Technology Officer of Musictoday.com. During his seven-year tenure, these companies grew from small organizations to multi-site businesses serving more than 100 e-commerce clients. In addition to being a top personalized music portal site, Musictoday.com offers complete ticketing and merchandising services to entertainment industry clients. Operations consist of e-commerce, phone/mail order, fulfillment, customer service, and accounting. Mr. Fooks oversaw operation and development of all systems. Musictoday.com owned and operated

RLC Internet, a local ISP serving local Internet access and hosting demand. Mr. Fooks oversaw the construction and implementation of a reliable data center for this operation.

7. Proposed Service Area:

Applicant requests state-wide authority to provide Local Exchange Services throughout the Commonwealth of Virginia.

8. Description of Services:

Fiber Roads requests authority to provide, on a non-discriminatory basis, Local Exchange Services throughout the Commonwealth of Virginia. Examples of such services may include, but are not limited to: (1) local exchange access services to single-line and multi-line customers (*e.g.*, basic residential and business access lines, direct inward/outward PBX trunk service; Centrex services, and ISDN); (2) local exchange usage services to customers of Fiber Roads' end-user access lines; and (3) switched and special carrier access services to other common carriers. Initially, however, Applicant will offer only high-speed broadband Internet access services. To the extent Fiber Roads subsequently offers Local Exchange Services, Fiber Roads will comply with the conditions for new entrants found in 20 VAC 5-417-30, and all other applicable laws, rules and regulations.³

None of Applicant, its parent company or any related company holds authority to provide, nor provides in fact, local exchange telecommunications services and/or

³ The SCC staff has previously determined that a request for waiver of these requirements is not required when an applicant will initially provide only broadband Internet access services. *See Commonwealth of Virginia State Corporation Commission, Application of Cavalier Broadband, LLC*, Report of Division of Communications Division of Economics and Finance, PUC-2002-00142 (Oct. 2, 2002). In these circumstances, Certificates of Public Convenience and Necessity have been granted based on the applicant's attestation that they will comply with such requirements upon provision of voice services. The Attestation of Jeffrey W. Cornejo regarding compliance with 20 VAC 5-417-30 is attached hereto at Exhibit C. Fiber Roads will, however, supplement its application to request such a waiver if so instructed by the SCC staff.

interexchange telecommunications services in any state. None of Applicant, its parent company or any related company has ever held an authorization or provided local exchange telecommunications services and/or interexchange telecommunications services in any state. None of Applicant, its parent company or any related company has ever had a certification or authorization to provide local exchange telecommunications services and/or interexchange telecommunications services denied, suspended, terminated, or revoked in any state.

9. Proposed Tariff Schedule:

An illustrative tariff for the Local Exchange Services is attached hereto at Exhibit D. Fiber Roads will provide the Commission with final tariffs prior to Applicant's provision of Local Exchange Services in Virginia.

10. Public Interest and Need Showing:

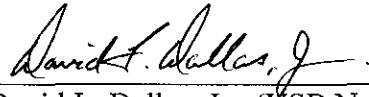
Grant of this application serves the public interest and need by providing consumers in Virginia with increased access to advanced telecommunications services (*e.g.*, high-speed broadband Internet access) and enhancing competition generally in the provision of telecommunications services. Fiber Roads will initially offer its customers an affordable alternative for high-speed broadband Internet access. Any future service offerings will increase competition among existing providers. Increased competition will reduce service costs, increase customer service standards, and lead to greater innovation in service offerings. Grant of this application will benefit Virginia consumers.

11. Conclusion:

Fiber Roads possesses the financial, managerial and technical ability to provide the services proposed herein and respectfully requests that the Commission grant Fiber Roads a Certificate of Public Convenience and Necessity to provide Local Exchange Services in the Commonwealth of Virginia.

Respectfully submitted,

FIBER ROADS, LLC



David L. Dallas, Jr., (VSB No. 27913)
Williams Mullen, A Professional
Corporation
321 East Main Street, Suite 400
Charlottesville, VA 22902-3200
Tele: 434.951.5707
Fax: 434.817.0977
ddallas@williamsmullen.com
Counsel to Fiber Roads, LLC

October 15, 2009

INDEX

EXHIBIT A: Certificate and Articles of Organization of Fiber Roads, LLC

CONFIDENTIAL EXHIBIT B: Confidential Financial Information

EXHIBIT C: Attestation of Jeffrey W. Comejo

EXHIBIT D: Illustrative Tariffs

EXHIBIT A

Commonwealth of Virginia



STATE CORPORATION COMMISSION

Richmond, June 12, 2009

This is to certify that the certificate of organization of

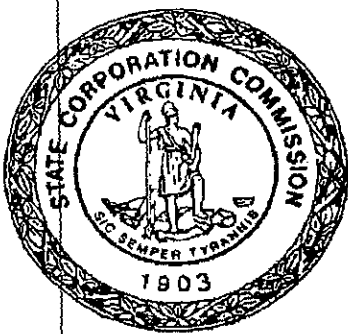
Fiber Roads, LLC

was this day issued and admitted to record in this office and that the said limited liability company is authorized to transact its business subject to all Virginia laws applicable to the company and its business. Effective date: June 12, 2009

State Corporation Commission

Attest:

Joel H. Beck
Clerk of the Commission





LLC-1011
(07/05)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

ARTICLES OF ORGANIZATION OF A
DOMESTIC LIMITED LIABILITY COMPANY

Pursuant to Chapter 12 of Title 13.1 of the Code of Virginia the undersigned states as follows:

1. The name of the limited liability company is

Fiber Roads, LLC
(The name must contain the words "limited company" or "limited liability company" or the abbreviation "L.C.", "LC", "LLC," or "LLC")

2. A. The name of the limited liability company's initial registered agent is

JEFFREY W. CORNEJO

B. The registered agent is (mark appropriate box):

- (1) an **INDIVIDUAL** who is a resident of Virginia and
 - a member or manager of the limited liability company.
 - a member or manager of a limited liability company that is a member or manager of the limited liability company.
 - an officer or director of a corporation that is a member or manager of the limited liability company.
 - a general partner of a general or limited partnership that is a member or manager of the limited liability company.
 - a trustee of a trust that is a member or manager of the limited liability company.
 - a member of the Virginia State Bar.

OR

- (2) a domestic or foreign stock or nonstock corporation, limited liability company or registered limited liability partnership authorized to transact business in Virginia.

3. The limited liability company's initial registered office address, including the street and number, if any, which is identical to the business office of the initial registered agent, is

321 E. MAIN ST. STE 200 CHARLOTTESVILLE VA 22902
(number/street) (city or town) (state) (zip)

which is physically located in the county or city of CHARLOTTESVILLE

4. The limited liability company's principal office address, including the street and number, if any, is

321 E. MAIN ST. STE 200 CHARLOTTESVILLE VA 22902
(number/street) (city or town) (state) (zip)

5. Organizer:

<u></u>	<u>June 4 2009</u>
<small>(signature)</small>	<small>(date)</small>
<u>JEFFREY CORNEJO</u>	<u>434-531-4411</u>
<small>(printed name)</small>	<small>(telephone number (optional))</small>

SEE INSTRUCTIONS ON THE REVERSE

CONFIDENTIAL EXHIBIT B

[FILED SEPARATELY UNDER SEAL]

EXHIBIT C

**BEFORE THE
COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

Application of)
)
FIBER ROADS, LLC)
)
For a Certificate of Public Convenience)
and Necessity to Provide Local Exchange)
Services in the Commonwealth of Virginia)

Case No. PUC-2009-_____

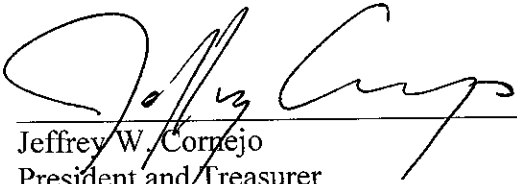
ATTESTATION OF JEFFREY W. CORNEJO

1. I am Jeffrey W. Cornejo, President and Treasurer of Fiber Roads, LLC (“Fiber Roads”).

2. I have read the foregoing Application, which was prepared under my direction and supervision, and, to the best of my knowledge, information and belief, its contents are true and correct.

3. Fiber Roads will comply with the requirements of 20 VAC 5-417-30 if and when Fiber Roads provides local exchange telecommunications services in the Commonwealth of Virginia.

I declare that the foregoing is true and correct. Executed this 15th day of October, 2009.



Jeffrey W. Cornejo
President and Treasurer
Fiber Roads, LLC

EXHIBIT D

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 28, 2010

CLERK'S OFFICE

2010 JAN 28 P 4:41

100140098

APPLICATION OF
FIBER ROADS, LLC

CASE NO. PUC-2009-00061

For a certificate of public
convenience and necessity to
provide local exchange
telecommunications services

FINAL ORDER

On October 16, 2009, Fiber Roads, LLC ("Fiber Roads" or the "Company"), filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide local exchange telecommunications services throughout the Commonwealth of Virginia.

By Order for Notice and Comment dated October 30, 2009, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On December 10, 2009, Fiber Roads filed proof of publication and proof of service as required by the October 30, 2009 Order.

On January 12, 2010, the Staff filed its Report finding that Fiber Roads' application was in compliance with the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, 20 VAC 5-417-10 *et seq.* Based upon its review of Fiber Roads' application, the Staff determined it would be appropriate to grant the Company a certificate to provide local exchange telecommunications services subject to the following condition: Fiber Roads should notify the Division of Economics and Finance no less than 30 days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services.

Accordingly, IT IS ORDERED THAT:

(1) Fiber Roads, LLC, is hereby granted a certificate of public convenience and necessity, No. T-694, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) The Company shall provide tariffs to the Division of Communications that conform with all applicable Commission rules and regulations.

(3) Fiber Roads, LLC, shall notify the Division of Economics and Finance no less than 30 days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(4) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
David L. Dallas, Jr., Esquire, Williams Mullen, P.C., 321 East Main Street, Suite 400,
Charlottesville, Virginia 22902; C. Meade Browder, Jr., Senior Assistant Attorney General,
Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor,
Richmond, Virginia 23219; and the Commission's Divisions of Communications, Public Service
Taxation, and Economics and Finance.

§ [56-265.4:4](#). Certificate to operate as a telephone utility.

A. The Commission may grant certificates to competing telephone companies, or any county, city or town that operates an electric distribution system, for interexchange service where it finds that such action is justified in the public interest, and is in accordance with such terms, conditions, limitations, and restrictions as may be prescribed by the Commission for competitive telecommunications services. A certificate to provide interexchange service shall not authorize the holder to provide local exchange services. The Commission may grant a certificate to any county, city or town that operates an electric distribution system, to furnish local exchange service provided in subsection B.

B. 1. After notice to all local exchange carriers certificated in the Commonwealth and other interested parties, following an opportunity for hearing, the Commission may grant certificates to any telephone company, county, city or town that operates an electric distribution system, proposing to furnish local exchange telephone service in the Commonwealth. In determining whether to grant a certificate under this subsection, the Commission may require that the applicant show that it possesses sufficient technical, financial, and managerial resources. In granting any such certificate, the Commission shall: (i) consider whether such action reasonably protects the affordability of basic local exchange telephone service, as such service is defined by the Commission, and reasonably assures the continuation of quality local exchange telephone service; and (ii) find that such action will not unreasonably prejudice or disadvantage any class of telephone company customers or telephone service providers, including the new entrant and any incumbent local exchange telephone company, and is in the public interest. Except as provided in subsection A of § [15.2-2160](#), all local exchange certificates granted by the Commission after July 1, 2002, shall be to provide service in any territory in the Commonwealth unless the applicant specifically requests a different certificated service territory. The Commission shall amend the service territory of each local exchange carrier that was previously certificated to provide service in only one territory in the Commonwealth to permit such carrier's provision of local exchange service throughout the Commonwealth beginning on September 1, 2002, unless that local exchange carrier notifies the Commission prior to September 1, 2002, that it elects to retain its existing certificated service territory. A local exchange carrier shall only be considered an incumbent in any certificated service territory in which it was considered an incumbent prior to September 1, 2002, except that the Commission may make changes to a local exchange carrier's incumbent certificated service territory at the request of those incumbent local exchange carriers that are directly involved in a proposed application for the certificated service territory.

2. A Commission order, including appropriate findings of fact and conclusions of law, denying or approving an application for certification of a new entrant shall be entered no more than 180 days after the filing of the application, except that the Commission, upon notice to all parties in interest, may extend the period in additional 30-day increments not to exceed an additional 90 days in all.

3. The Commission shall (i) promote and seek to assure the provision of competitive services to all class of customers throughout all geographic areas of the Commonwealth by a variety of service providers; (ii) require equity in the treatment of the certificated local exchange telephone companies so as to encourage competition, service, quality, and price differences between alternative providers; (iii) consider the impact on competition of any government-imposed restrictions limiting the markets to be served or the services offered by any provider; (iv) determine the form of rate regulation, if any, for the local exchange services to be provided by the applicant upon application, the form of rate regulation for the comparable services of the incumbent local exchange telephone company provided in the geographical area to be served by the applicant; and (v) promulgate standards to ensure that there is no cross-subsidization of the applicant's competitive local exchange telephone services by any other services over which it has a monopoly, whether or not those services are telephone services. The Commission shall also adopt safeguards to ensure that the prices charged and the revenue received by a county, city or town

providing telecommunications services shall not be cross-subsidized from other revenues of the county, or affiliated entities, except (i) in areas where no offers exist from for-profit providers of such telecommunications services, or (ii) as authorized pursuant to subdivision 5 of this subsection.

4. The Commission shall discharge the responsibilities of state commissions as set forth in the federal Telecommunications Act of 1996 (P.L. 104-104) (the Act) and applicable law and regulations, including limited to, the arbitration of interconnection agreements between local exchange carriers; however, the Commission may exercise its discretion to defer selected issues under the Act. If the Commission incurs additional costs in arbitrating such agreements or resolving related legal actions or disputes that cannot be recovered through the maximum levy authorized pursuant to § [58.1-2660](#), that levy shall be increased above the levy authorized in this section to the extent necessary to recover such additional costs.

5. Upon the Commission's granting of a certificate to a county, city or town under this section, such county, city or town (i) shall be subject to regulation by the Commission for intrastate telecommunications services, (ii) shall perform the same duties and obligations as other certificated providers of telecommunications services, (iii) shall account for the revenues, expenses, property, and source of investment dollars associated with the provision of telecommunications services, and (iv) to ensure that there is no unreasonable advantage gained from a government agency's title and authority and control of government-owned land, shall charge an amount for such services that (a) does not include any subsidies, unless approved by the Commission, and (b) takes into account, by imputation or allocation, the equivalent charges for all taxes, pole rentals, rights of way, licenses, and similar costs incurred by for-profit providers. Each certificated county, city, or town that provides telecommunications services regulated by the Commission shall file an annual report with the Commission demonstrating that the requirements of clause (iv) of this subdivision have been met. The Commission may approve a subsidy under this section if deemed to be in the public interest and provided that such subsidy does not result in a price for the service lower than the price for the same service charged by the incumbent provider in the area.

6. A locality that has obtained a certificate pursuant to this section shall (i) comply with all applicable laws and regulations for the provision of telecommunications services; (ii) make a reasonable estimate of the amount of federal, state, and local taxes (including income taxes and consumer utility taxes) that would be required or collected for each fiscal year if the locality were a for-profit provider of telecommunications services, (iii) make reasonable estimates of the amount of any franchise fees and other state and local fees (including permit fees and pole rental fees), and right-of-way charges that would be incurred in each fiscal year if the locality were a for-profit provider of telecommunications services, (iv) prepare and publish annually financial statements in accordance with generally accepted accounting principles showing the results of operations of its provision of telecommunications services, and (v) maintain records demonstrating compliance with the provisions of this section that shall be made available for inspection and copying pursuant to the Virginia Freedom of Information Act (§ [2.2-3700](#) et

7. Each locality that has obtained a certificate pursuant to this section shall provide nondiscriminatory access to for-profit providers of telecommunications services on a first-come, first-served basis to rights-of-way, poles, or other permanent distribution facilities owned, leased or operated by the locality unless the facilities have insufficient capacity for such access and additional capacity cannot reasonably be added to the facilities.

8. The prices charged and the revenue received by a locality for providing telecommunications services shall not be cross-subsidized by other revenues of the locality or affiliated entities, except (i) in areas where no offers exist from for-profit providers of such telecommunications services, or (ii) as permitted by the provisions of subdivision 5. The provisions of this subdivision shall not apply to Internet access, broadband, information, and data transmission services provided by any locality providing telecommunications services on March 1, 2002.

9. The Commission shall promulgate rules necessary to implement this section. In no event, however, shall the Commission be necessary to implement subdivisions B 5 iii and iv, B 6 ii through v, and B 8 impose any obligations on a

that has obtained a certificate pursuant to this section, but is not yet providing telecommunications service by the Commission.

10. Public records of a locality that has obtained a certificate pursuant to this section, which records contain confidential proprietary information or trade secrets pertaining to the provision of telecommunications services, shall be exempt from disclosure under the Freedom of Information Act (§ [2.2-3700](#) et seq.). As used in this subsection, a public record contains confidential proprietary information or trade secrets if its acquisition by a competing provider of telecommunications services would provide the competing provider with a competitive benefit.

C. Article 5.1 (§ [56-484.7:1](#) et seq.) of Chapter 15 of this title shall not apply to a county, city or town that has obtained a certificate pursuant to this section.

D. Any county, city, or town that has obtained a certificate pursuant to this section may construct, own, and operate a fiber optic or communications infrastructure to provide consumers with Internet services, cable television transmission services, and any other communications service that its infrastructure is capable of delivering. However, provided, however, nothing in this subsection shall authorize the provision of cable television services or multi-channel video programming service. Furthermore, nothing in this subsection shall alter the authority of the Commission.

E. Any county, city, or town that has obtained a certificate pursuant to this section and that had installed a cable television system prior to December 31, 2002, is authorized to own and operate a cable television system and multi-channel video programming service and shall be exempt from the provisions of §§ [15.2-2108.4](#) through [2108.8](#). Nothing in this subsection shall authorize the Commission to regulate cable television service.

(1984, c. 382; 1995, cc. [22](#), [35](#), [187](#); 2001, c. [75](#); 2002, cc. [479](#), [489](#); 2003, cc. [677](#), [711](#), [720](#); 2005, c. [258](#), [73](#), [76](#); 2009, c. [330](#).)

[prev](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)



EveryCall Communications, Inc.
4315 Bluebonnet Blvd., Suite A
Baton Rouge, LA 70809

RECEIVED
2010 JAN 22 A 10:46
WVA PUBLIC SERVICE
COMMISSION
SECRETARY'S OFFICE

January 21, 2010

Via Overnight Mail

Sandra Squire, Executive Secretary
West Virginia Public Service Commission
201 Brooks Street
Charleston, WV 25301

10-0056-T-CN
RE: Application for a Certificate of Public Convenience and
Necessity to Provide Intrastate Interexchange and
Facilities-Based Local Exchange Telecommunications Service on
behalf of Everycall Communications, Inc. d/b/a Local USA and
All American Home Phone

Dear Ms. Squire:

Enclosed please find an original and twelve (12) copies of the Application for a Certificate of Public Convenience and Necessity to Provide Intrastate Interexchange and Facilities-Based Local Exchange Telecommunications Services on behalf of Everycall Communications, Inc., d/b/a Local USA and All American Home Phone. Also enclosed is the requisite \$300.00 filing fee.

An additional copy of this letter has been enclosed to be file stamped and returned in the envelope provided.

Should you have any questions, please contact the undersigned.

Sincerely,

Kyle Coats
President

Enclosure

Voice: 225-293-3332 Fax: 225-293-3335

**BEFORE THE
WEST VIRGINIA PUBLIC SERVICE COMMISSION**

IN RE: APPLICATION OF)
EVERYCALL COMMUNICATIONS, INC.)
D/B/A LOCAL USA, D/B/A ALL AMERICAN HOME PHONE)
FOR A CERTIFICATE OF CONVENIENCE) Application No.
AND NECESSITY TO PROVIDE)
INTRASTATE INTEREXCHANGE AND)
FACILITIES-BASED LOCAL EXCHANGE)
TELECOMMUNICATIONS SERVICE WITHIN)
THE STATE OF WEST VIRGINIA)

APPLICATION

Everycall Communications, Inc. d/b/a Local USA, d/b/a All American Home Phone ("Applicant") hereby submits this application for certificate of public convenience and necessity to the West Virginia Public Service Commission, for authority to provide resold intrastate and facilities-based local telecommunications service, including prepaid local, within the State of West Virginia. In support of its application, Applicant provides the following information:

1. The name, principal address and telephone number of the applicant corporation are:

Everycall Communications, Inc.
d/b/a Local USA, d/b/a All American Home Phone
4315 Bluebonnet Blvd., Suite A
Baton Rouge, LA 70809
Ph. (225) 293-3332
Fax: (225) 293-3335

2. Applicant is a limited liability company organized under the laws of the State of Louisiana on November 20, 1997, and is authorized to transact business in the State of West Virginia as evidenced by its Certificate of Authority and Fictitious Name authorities attached hereto as **Exhibit A**.

3. Applicant's representative to whom all pleadings, orders and other correspondence regarding this docket should be addressed:

Kyle Coats, President
Everycall Communications, Inc.
4315 Bluebonnet Blvd., Suite A
Baton Rouge, LA 70809
Ph. (225) 293-3332
Fax (225) 293-3335
E-Mail: coats@everycall.com

with copies to:

Leon Nowalsky
Nowalsky, Bronston & Gothard, APLLC
1420 Veterans Blvd.
Metairie, LA 70005
Phone: (504) 832-1984
Fax: (504) 831-0892
E-Mail: lnowalsky@nbglaw.com

4. Applicant will provide long distance and prepaid local telecommunications services to residential and business customers. Applicant will provide facilities-based services to the extent that it will offer unbundled network elements, as allowed, from the ILEC. The Applicant will not deploy new facilities, but will utilize existing facilities of the underlying ILEC(s).
5. As a reseller, no costs will be associated with the installation of facilities.
6. The Applicant is financially capable of providing the requested services, as evidenced by its financial statements attached as **Exhibit B**.
7. Applicant's management team has the managerial expertise necessary to operate the Company on a continuous and profitable basis. Profiles of the Company's current management team are attached as **Exhibit C**. In addition, the Company is currently operating as a prepaid local service provider in fifteen states, and is expanding its operations in several additional states.
8. The Applicant is technically competent to provide the proposed communications services as evidenced by its existing successful operations in the states listed in **Exhibit D**. Additionally, as a reseller utilizing the facilities of underlying carrier(s), the Applicant will rely on the technical ability of the underlying carrier(s).

9. The Applicant has knowledge of, and is willing to comply with, all applicable Commission rules and regulations. Applicant will fully, timely and completely participate in the reasonable provision of access to emergency services, including, where appropriate, full interface with and support of 9-1-1 and Enhanced 9-1-1 services. Applicant will comply with the requirements set forth in Section 251(f) of the Telecommunications Act of 1996 before offering service in any area served by a RTC.
10. The Applicant's rates, rules and regulations for furnishing services are set forth in the Company's proposed interexchange and local exchange tariffs which are attached hereto as **Exhibit E**.

WHEREFORE, Everycall Communications, Inc., d/b/a Local USA, d/b/a All American Home Phone, requests that the West Virginia Public Service Commission grant authority to engage in the provision of resold and facilities-based interexchange and local exchange telecommunications, including prepaid local, within the State of West Virginia.

Respectfully submitted this 14th day of Jun, 2010.

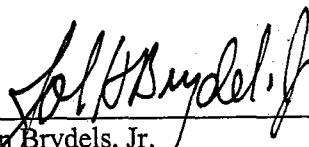
By:



John Brydels, Jr.
Everycall Communications, Inc.
d/b/a Local USA, d/b/a All American
Home Phone
4315 Bluebonnet Blvd., Suite A
Baton Rouge, LA 70809
Ph. (225) 293-3332

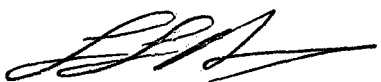
VERIFICATION

I, John Brydels, Jr., Chief Financial Officer of Everycall Communications, Inc., first being duly sworn on oath, depose and state I have authority to sign the above application on behalf of the Applicant, that I have read the foregoing Application, and verify that the statements made therein are true and correct to the best of my knowledge, information and belief.



John Brydels, Jr.
Everycall Communications, Inc.
d/b/a Local USA, d/b/a All American Home
Phone
4315 Bluebonnet Blvd., Suite A
Baton Rouge, LA 70809
Ph. (225) 293-3332

The foregoing instrument was
acknowledged before me this
14th day of JAN, 2010.



Notary Public

My Commission Expires:

LEON L. NOWALSKY
Notary Public, State of Louisiana
My Commission is issued for life.
Notary Number: 4339

State of West Virginia



Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

EVERYCALL COMMUNICATIONS, INC.

Control Number: 96373

a corporation formed under the laws of Louisiana

has filed its "Application for Certificate of Authority" to transact business in West Virginia as required by the provisions of the West Virginia Code. I hereby declare the organization to be registered as a foreign corporation from its effective date of August 23, 2007

Therefore, I issue this

CERTIFICATE OF AUTHORITY

to the corporation authorizing it to transact business in West Virginia



*Given under my hand and the
Great Seal of the State of
West Virginia on this day of
August 23, 2007*

Betty Ireland

Secretary of State

FILED

AUG 23 2007



Betty Ireland
Secretary of State
State Capitol
1900 Kanawha Blvd. E
Charleston, WV 25305
FILE ONE ORIGINAL
FEES PER SCHEDULE

IN THE OFFICE OF
SECRETARY OF STATE
**CERTIFICATE OF
AUTHORITY**

Penney Barker, Manager
Corporations Division
Tel. (304) 558-8000
Fax (304) 558-5758
www.wvsos.com
Hours: 8:30am-5:00pm
PLEASE READ INSTRUCTIONS

CTRL # 96373

1. HOME STATE INFORMATION:

- a. The name of the corporation as it is registered in its home state is: Everycall Communications, Inc.
- b. State of Louisiana Date of Incorp. 11/20/97 Duration (# yrs. or perpetual) perpetual
Warning: Tax reporting requirements in West Va. will not end until a withdrawal is filed.
- c. NAIC # _____ (If an insurance company)

2. PRINCIPAL OFFICE INFORMATION:

- a. Address of the principal office of the corporation: No. & Street 4315 Bluebonnet Blvd., Suite A
City/State/Zip Baton Rouge, LA 70809
- b. Mailing address, if different, from above address: Street/PO Box _____
City/State/Zip _____

3. WEST VIRGINIA INFORMATION:

- a. Corporate name to be used in W. Va.: Home state name as listed on line 1.a. above, if available.
(check one, follow instructions) DBA name
- b. Address of registered office in West Virginia, if any: No. & Street 209 West Washington Street
City/State/Zip Charleston, WV 25302
- c. Mailing address in WV, if different, from above: Street/PO Box _____
City/State/Zip _____
- d. Proposed purpose(s) for transaction of business in WV: sale of telecommunications services

4. AGENT OF PROCESS:

Properly designated person to whom notice of process may be sent, if any: Name Corporation Service Company
Address 209 West Washington Street, Charleston, WV 25302

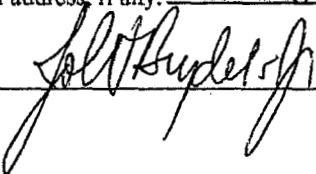
5. CORPORATE STATUS INFORMATION:

- a. Corporation is organized as (check one): For profit
 Non-profit

b. Directors and Officers: (Add extra page if necessary; please list all officers)

Officer	Name	Address
President	Kyle Coats	4315 Bluebonnet Blvd., Suite A, Baton Rouge, LA 70809
Chairman of the Board	John Brydels, Jr.	4315 Bluebonnet Blvd., Suite A, Baton Rouge, LA 70809
CEO	Jon C. Segar	4315 Bluebonnet Blvd., Suite A, Baton Rouge, LA 70809

6. Contact and Signature Information

- a. Caroline Pays 504-832-1984
 Contact Name Phone Number
- b. John Brydels, Jr. Chairman of the Board
 Print or type name of signer Title or Capacity of Signer
- c. Business email address, if any: brydels@everycall.com
 Email address
- d. Signature of Signer:  Date: 8-8-07

State of West Virginia



Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

EVERYCALL COMMUNICATIONS, INC.

has filed a "Certificate of Registration of Trade Name" in my office according to the provisions of Chapter 47 of the West Virginia Code and was found to conform to law.

Therefore, I hereby issue this

CERTIFICATE OF REGISTRATION OF TRADE NAME

authorizing it to transact business in West Virginia under the assumed name of

ALL AMERICAN HOME PHONE

*Given under my hand and the
Great Seal of the State of
West Virginia on this day of
September 5, 2007*

Betty Ireland

Secretary of State



FILED

SEP 05 2007

Betty Ireland
Secretary of State
State Capitol Building
1900 Kanawha Blvd. East
Charleston, WV 25305-0770



Penney Barker, Manager
Corporations Division
Tel: (304) 558-8000
Fax: (304) 558-5758
www.wvsos.com

IN THE OFFICE OF
SECRETARY OF STATE
APPLICATION FOR
TRADENAME

File One Application
FEE: \$25.00

Hrs: 8:30 am - 5:00 pm ET

1. The name of the company applying to register a tradename is: Everycall Communications, Inc.

2. The above company is applying to do business within West Virginia under the following tradename: All American Home Phone

3. The address of the principal office: 4315 Bluebonnet Blvd, Suite A, Baton Rouge, LA 70809

4. The name, title, address, and signature of the person having authority to make application

Name:	<u>John Brydels, Jr.</u>
Street:	<u>4315 Bluebonnet Blvd., Suite A</u>
City/State/Zip:	<u>Baton Rouge, LA 70809</u>

5. Signature: Title: Chairman of the Board

BEFORE you fill out the application: The name you select will be approved only if it is available-- that is, if the name is not the same as and is distinguishable from any other name which has been reserved or filed. Before you prepare this application, call the Corporations Division at (304) 558-8000 to find out if the name you have chosen is available. A telephone check on availability of a name is NOT a guarantee, but it will help find a name you can use.

As required by §47-8-4 of the West Virginia Code, corporations, associations, limited partnership, limited liability partnerships, business trusts, and limited liability companies may not conduct business under a trade name or assumed name without first filing an application for registration of trade name with the Secretary of State.

FILE THE APPLICATION AT THE ADDRESS ON THE TOP OF THE APPLICATION
Fee -- \$25 Make checks payable to Secretary of State.

State of West Virginia



Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

EVERYCALL COMMUNICATIONS, INC.

has filed a "Certificate of Registration of Trade Name" in my office according to the provisions of Chapter 47 of the West Virginia Code and was found to conform to law.

Therefore, I hereby issue this

CERTIFICATE OF REGISTRATION OF TRADE NAME

authorizing it to transact business in West Virginia under the assumed name of

LOCAL USA



*Given under my hand and the
Great Seal of the State of
West Virginia on this day of
September 5, 2007*

Betty Ireland

Secretary of State

FILED

SEP 05 2007



Betty Ireland
Secretary of State
State Capitol Building
1900 Kanawha Blvd. East
Charleston, WV 25305-0770

Penney Barker, Manager
Corporations Division
Tel: (304) 558-8000
Fax: (304) 558-5758
www.wvsos.com

IN THE OFFICE OF
SECRETARY OF STATE
APPLICATION FOR
TRADENAME

File One Application
FEE: \$25.00

Hrs: 8:30 am - 5:00 pm ET

- The name of the company applying to register a tradename is: Everycall Communications, Inc.
- The above company is applying to do business within West Virginia under the following tradename: Local USA
- The address of the principal office: 4315 Bluebonnet Blvd, Suite A, Baton Rouge, LA 70809
- The name, title, address, and signature of the person having authority to make application

Name:	<u>John Brydels, Jr.</u>
Street:	<u>4315 Bluebonnet Blvd., Suite A</u>
City/State/Zip:	<u>Baton Rouge, LA 70809</u>
- Signature: Title: Chairman of the Board

BEFORE you fill out the application: The name you select will be approved only if it is available-- that is, if the name is not the same as and is distinguishable from any other name which has been reserved or filed. Before you prepare this application, call the Corporations Division at (304) 558-8000 to find out if the name you have chosen is available. A telephone check on availability of a name is NOT a guarantee, but it will help find a name you can use.

As required by §47-8-4 of the West Virginia Code, corporations, associations, limited partnership, limited liability partnerships, business trusts, and limited liability companies may not conduct business under a trade name or assumed name without first filing an application for registration of trade name with the Secretary of State.

FILE THE APPLICATION AT THE ADDRESS ON THE TOP OF THE APPLICATION
Fee -- \$25 Make checks payable to Secretary of State.

EveryCall Communications, Inc.
Balance Sheet
 As of December 31, 2009

Dec 31, 09

ASSETS

Current Assets

Checking/Savings

Regions Checking-Operating Acct	-48,102.88
All American - Checking	75,659.15
All American - Refund Checking	453.67
Scottrade - Savings Account	2,178.92
Regions Bank - Petty Cash	380.24
Regions Bank-Cash-Georgia Acct	250,011.74
Regions Bank - CD-LPSC	51,249.64
Regions Bank - CD-TN	21,483.24

Total Checking/Savings 353,313.72

Accounts Receivable

Accounts Receivable 97,044.07

Total Accounts Receivable 97,044.07

Other Current Assets

Due to/from Brydels Properties	1,463.32
Due to/from Brydels Communicati	2,000.00
Payroll Asset	-3,850.00
Employee Advances	3,850.00
Due to/from Kyle Coats	4,890.00
Due to/from Brydels Marketing	5,120.00
Due from Louisiana Online	68,463.00
Deposits	990.00

Total Other Current Assets 82,926.32

Total Current Assets 533,284.11

Fixed Assets

Software	30,031.88
Machinery & Equipment	42,316.12
Accumulated Depreciation	-31,965.88
Furniture and Fixtures	5,167.03

Total Fixed Assets 45,549.15

TOTAL ASSETS 578,833.26

LIABILITIES & EQUITY

Liabilities

Current Liabilities

Other Current Liabilities

AT&T Disputed Amount	551,000.00
Allowance for Bad Debt	1,899.91
Due to/from Ten Sixteen Communi	-25.00

Payroll Liabilities

Garnishment	193.06
LA Withholding	9.31
LA Unemployment	64.28
FUTA Payable	5.72
FICA - Employee	54.63
FICA - Company	54.63
Federal Withholding	12.00
Payroll Liabilities - Other	6,125.14

Total Payroll Liabilities 6,518.77

Sales and Excise Tax Payable 29,710.17

Total Other Current Liabilities 589,103.85

Total Current Liabilities 589,103.85

12:15 PM
01/19/10
Cash Basis

EveryCall Communications, Inc.
Balance Sheet
As of December 31, 2009

	<u>Dec 31, 09</u>
Long Term Liabilities	
Regions Bank - LOC	64.09
Due to/from John Brydels, Jr.	<u>227,949.08</u>
Total Long Term Liabilities	<u>228,013.17</u>
Total Liabilities	817,117.02
Equity	
Shareholder Equity	559,196.49
Capital Stock	3,000.00
Retained Earnings	-877,660.55
Net Income	<u>77,180.30</u>
Total Equity	<u>-238,283.76</u>
TOTAL LIABILITIES & EQUITY	<u><u>578,833.26</u></u>

EveryCall Communications, Inc.
Profit & Loss
January through December 2009

	Jan - Dec 09
Ordinary Income/Expense	
Income	
Sales - AAHP	-13.00
Sales - AAHP (Refunds)	-1,882.02
Sales - AAHP - GD Money Pak	192,903.34
Sales - AAHP - Cash	238.50
Sales - AAHP - Money Orders/Cks	1,154,031.37
Sales - AAHP - Money Gram	861,002.32
Sales - AAHP - Credit Card	3,297,012.94
Sales - AAHP Agents	5,390.81
Sales - Local USA	1,053,598.70
Sales - CABS	27,841.07
Total Income	6,590,124.03
Cost of Goods Sold	
Cost of Goods Sold	
COGS - Disputed Amount	551,000.00
COGS - Outsource Services	0.00
COGS - Billing Expenses	421,375.57
COGS - CGM/Audit	36,553.68
COGS - Invoice Printing	62,156.48
COGS - Services	1,282,961.72
COGS - Taxes	509,497.07
COGS - Tax Compliance Services	38,644.49
COGS - Third Party Verification	55,179.00
Total Cost of Goods Sold	2,957,368.01
Total COGS	2,957,368.01
Gross Profit	3,632,756.02
Expense	
Advertising and Promotion	1,105,605.39
Agent Commission - Local USA	1,386.23
Agent Commission - AAHP	276.55
Bank Service Charges	21,104.92
Charitable Contributions	1,620.00
Computer and Internet Expenses	35,012.04
Continuing Education	4,780.42
Contract Labor	6,000.00
Credit Card Fees	110,254.63
Credit Reports	875.00
Dues and Subscriptions	3,221.54
Equipment Rental	1,821.23
Fees	10,645.95
Indep Contract Labor-Hispanic	186,062.00
Insurance Expense	
Long Term Disability Income Pla	600.00
Long Term Care Plan	568.08
Medical	
STATE CONTINUATION Subsidy	2,524.48
Medical - Other	115,697.25
Total Medical	118,221.73
Life & Std. Premium	9,772.40
Liability Insurance	1,062.00
Dental	6,004.58
Worker's Compensation	7,517.95
Total Insurance Expense	143,746.74

EveryCall Communications, Inc.
Profit & Loss
January through December 2009

	<u>Jan - Dec 09</u>
Interest Expense	62,038.61
Leased Equip - Postage Meter	2,393.64
Licenses and Permits	3,600.00
Miscellaneous Expense	296.91
Office Expense	29,262.62
Office Supplies	22,716.90
Payroll Expenses	1,472,265.44
Penalties	170.96
Pest Control	209.79
Postage and Delivery	34,888.65
Printing and Reproduction	10,705.37
Professional Fees	
Accounting	4,375.00
Legal Fees	56,850.22
Consulting	8,500.00
Total Professional Fees	<u>69,725.22</u>
Provisioning	1,575.92
Rent Expense	82,540.00
Repairs and Maintenance	
Building	1,507.19
Total Repairs and Maintenance	<u>1,507.19</u>
Security	564.00
Taxes	
Federal	3,000.00
State	6,414.00
Taxes - Other	237.00
Total Taxes	<u>9,651.00</u>
Taxes - Property	567.74
Telemarketing	3,624.21
Telephone Expense	93,463.12
Temporary Employment Services	606.42
Travel & Ent	
Lodging	-147.98
Travel	10,948.27
Entertainment	5,007.68
Total Travel & Ent	<u>15,807.97</u>
Utilities	
Water	785.88
Gas & Electric	6,201.33
Total Utilities	<u>6,987.21</u>
Total Expense	<u>3,557,581.53</u>
Net Ordinary Income	75,174.49
Other Income/Expense	
Other Income	
Interest Income	2,005.81
Total Other Income	<u>2,005.81</u>
Net Other Income	2,005.81
Net Income	<u><u>77,180.30</u></u>

KYLE B. COATS
5614 Stones River Ave.
Baton Rouge, LA 70817

RESUME OF QUALIFICATIONS

(225) 753-6230

EDUCATION LOUISIANA STATE UNIVERSITY, Baton Rouge, LA
Bachelor of Science Degree

EXPERIENCE

07/03-Present EVERYCALL COMMUNICATIONS, Baton Rouge, LA
President/Treasurer

01/03- 07/03 COMMAND CENTRAL, Baton Rouge, LA
Sales Manager
Responsibilities: All sales activity related to prospecting, proposing and closing alarm monitoring services to alarm dealers throughout the U.S.

12/00-12/02 EATEL, Baton Rouge, LA (Eatel acquired Telamerica 12/8/00)
Manager, Strategic Sales
Responsibilities: Manage the existing Telamerica sales team in marketing the products offered by Eatel. Products include: facilities based T-1 and resale dial tone, T-1 internet and long distance service.

12/96- 12/00 TELAMERICA LONG DISTANCE, Baton Rouge, LA
Vice President of Sales and Customer Service
Responsibilities: In addition to responsibilities as sales manager, my responsibilities included: Opening sales offices in markets throughout LA, staffing these offices with both sales and managerial personnel, creating a centralized customer service department and then expanding it into a 24/7 operation, managed the process of becoming a competitive Local Exchange Carrier.

1/88 - 3/96 Sales Manager-TELAMERICA LONG DISTANCE
Responsibilities: Hiring, training, supervising, and evaluating of sales force, development and implementation of incentive oriented compensation plan and competitive rate structures, coordination of all marketing activities which include: direct sales, trade shows, and advertising trade accounts. Handled all customer relations for new and existing accounts.

2/87 - 1/88 Communications Consultant - TELAMERICA LONG DISTANCE
Responsibilities: Generation of leads, follow up on leads, analysis of potential client's long distance needs, presentation and closing of proposals to potential clients, follow up on customer satisfaction.

6/85 - 1/87 GAGE TELECO USA, Baton Rouge, LA
Account Representative
Responsibilities; Market PBX and Key phone systems to area businesses.

JOHN H. BRYDELS, JR. , CFA
549 Kenilworth Parkway
Baton Rouge, LA 70808

RESUME
john@brydels.com
(225) 806-3599

EDUCATION LOUISIANA STATE UNIVERSITY, Baton Rouge, LA
Bachelors of Science - Finance - 1982

LOUISIANA STATE UNIVERSITY, Baton Rouge, LA
Masters of Science – Accounting - 1984

YALE UNIVERSITY - SCHOOL OF MANAGEMENT, New Haven, CT
Masters of Business Administration - Concentration in Finance – 2005
Distinction in the following courses: Accounting, Corporate Finance,
Corporate Finance II, Economics, Investments, Statistics, Operations

EXPERIENCE

2006-Present BRYDELS FINANCIAL SERVICES, LLC – Baton Rouge, LA
President and Owner of Investment Advisory Firm.

2006-Present SOUTHEASTERN LOUISIANA UNIVERSITY – Hammond, LA
Adjunct Faculty Member – teaching Corporate Finance

2004-Present EVERYCALL COMMUNICATIONS d/b/a LOCAL USA, Baton Rouge, LA
Chief Financial Officer and Part Owner
Responsibilities: Cash management, budgeting, forecasting, regulatory and
government filings.

1984 - 2001 TLX d/b/a TELAMERICA LONG DISTANCE, Baton Rouge, LA
President and Chief Executive Officer
Responsibilities: Cash management, budgeting, forecasting, regulatory and
government filings.

1982 - 1984 LOUISIANA STATE UNIVERSITY – Accounting Department
Responsibilities: Taught cost accounting (managerial accounting) and Graduate
Assistant for tax accounting class.

PROFESSIONAL DESIGNATIONS:

CPA – Certified Public Accountant (inactive)
CFA Charterholder – Chartered Financial Analyst
CMA – Certified Managerial Accountant

REFERENCES Available upon request

Resume

Jon C. Seger

Personal Data

Address: 756 Myrtle View Drive, Baton Rouge, Louisiana 70810-4200.
Home Phone: (225) 769-3950.
Date and Place of Birth: June 3, 1957 Ft. Collins, Colorado.
Marital Status: Married, four children.

Work Experience

Date: July 2003-Present
Company: EveryCall Communications, Inc
Type of Business: Competitive Local Exchange Carrier
Position: CEO

Date: December 2000 – June 2003
Company: Louisiana Online, Inc., Baton Rouge, Louisiana
Type of Business: Internet retail.
Position: Owner / Vice President
Description of work:

Web site creation and modification, photography, inventory control, order processing, shipping, telecommunications, and system backups.

Date: June 1984 - December 2000
Company: TLX Communications, Inc., Baton Rouge, Louisiana.
Type of Business: Telephone company.
Position: Owner / Vice President.
Description of work:

Chief Engineer responsible for all technical aspects of the company, including installation and maintenance of long distance network, Harris 20/20 switch and related equipment, digital and analog trunks, central office repeaters, Novell LAN, customer database and billing system, fire suppression systems, UPS and DC power system. Head of customer provisioning department and technical support department. Oversee installation and maintenance of customer premise Channel

Banks, 1+ Automatic Dialers, and data circuits.

Date: June 1981 - June 1982

Company: Catalytic, Inc., Baton Rouge, Louisiana.

Type of Business: Industrial Engineering and Construction company.

Position: Field and Home Office Planning Engineer, Project Administrator.

Description of work:

Field Planning Engineer on Crude Air Preheater project for Marathon Oil Company, Garyville, Louisiana. Home Office Planning Engineer assigned to the following projects: Substrate Alumina expansion for Kaiser Aluminum and Chemical Corp., Baton Rouge, Louisiana; Blending and Packaging facility for Penzoil Products Company, Shreveport, Louisiana; and Crude Air Preheater for Marathon Oil Company, Garyville, Louisiana. Project Administrator for Substrate Alumina project for Kaiser Aluminum and Chemical Corp., Baton Rouge, Louisiana.

Date: June 1973 - March 1981

Employer: Self-Employed Painting Contractor, Baton Rouge, Louisiana.

Description of work:

Estimating, Contract Administration, Accounting, Purchasing, Job Superintendent, Painter.

Education

1982 - 1984 Louisiana State University, Baton Rouge, Louisiana.

Degree: Master of Business Administration.

1975 - 1981 Louisiana State University, Baton Rouge, Louisiana.

Degree: Bachelor of Science in Construction.

1971 - 1975 Robert E. Lee High School, Baton Rouge, Louisiana.

College Honors and Activities

SGA University College President; Dean's List; Student Chapter Associated General Contractors; Phi Gamma Delta - IFC Representative, Scholastic Achievement Award, Award and Honors Committee.

EXHIBIT D

STATES WHERE CERTIFIED

Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, New York,
Pennsylvania, South Carolina, Tennessee, and Texas

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered by the Public Service Commission of West Virginia, in the City of Charleston on this the 22nd day of January 2010.

CASE NO. 10-0056-T-CN

EVERYCALL COMMUNICATIONS, INC., dba
LOCAL USA, dba ALL AMERICAN HOME PHONE
Application for a certificate of convenience and
necessity to provide intrastate interexchange and
facilities-based local exchange telecommunications
service within the State of West Virginia.

NOTICE OF FILING

On January 22, 2010, Everycall Communications, Inc., dba Local USA, dba All American Home Phone filed an application for a certificate of convenience and necessity and filing fee to provide intrastate interexchange and facilities-based local exchange telecommunications service within the State of West Virginia. The application and exhibits are available for public inspection at the Commission's offices at 201 Brooks Street, Charleston.

Pursuant to West Virginia Code §24-2-11, IT IS ORDERED that the Applicant give notice of the filing of said application by publishing a copy of this order once in a qualified newspaper as provided in West Virginia Code §59-3-1 et seq, published and of general circulation in each of the Cities of Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling, and Williamson, making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to make objection to said application must do so in writing, within 30 days after publication of this notice, to Sandra Squire, Executive Secretary, Public Service Commission, P.O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said thirty-day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

A True Copy. Teste:


Sandra Squire
Executive Secretary

SS/cg
100056s.wpd

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 30th day of June 2010.

CASE NO. 10-0056-T-CN

EVERYCALL COMMUNICATIONS, INC.,
doing business as LOCAL USA, doing business
as ALL AMERICAN HOME PHONE,
a public utility, Baton Rouge, Louisiana.

Application for a certificate of convenience and necessity to provide intrastate interexchange and facilities-based local exchange telecommunications services to customers throughout the State of West Virginia.

COMMISSION ORDER

On January 22, 2010, Everycall Communications, Inc., dba Local USA, dba All American Home Phone (All American), filed an application for a certificate of convenience and necessity to provide resold and facilities-based local exchange and interexchange telecommunications services throughout the State of West Virginia. Accompanying the application was a proposed tariff that contained the rates and charges for the interexchange and local exchange services it intends to offer in West Virginia.

By Order dated January 22, 2010, All American was required to give statewide notice of the filing of its application by publishing a copy of said Order, once, in a newspaper, duly qualified by the Secretary of State, published and of general circulation in nineteen designated cities throughout West Virginia, making due return to the Commission of proper certification of publication. The notice directed that anyone desiring to object to the application must do so, in writing, within thirty (30) days after publication of said notice. The notice further provided that, if no protests were received within the thirty-day period, the Commission could waive formal hearing and grant the application based upon the evidence submitted in the application and the Commission's review thereof.

On February 16, 2010, Commission Staff filed its initial recommendation. Staff stated that it had reviewed the tariffs attached to the application and had made recommendations on the tariffs to All American. Staff further stated that it would submit its final recommendation after reviewing the revised tariffs once they were received.

The revised tariffs were filed on February 18, 2010.

On February 23, 2010, Staff filed a Final Memorandum recommending that the application of All American for a certificate of convenience and necessity to provide both resold and facilities-based local exchange and interexchange telecommunications services be granted, as amended by the revised tariffs on February 18, 2010, without a formal hearing.

On April 23, 2010, All American filed affidavits of publication indicating that the Notice of Filing had been published in the designated nineteen cities. No protests were received to the application within the thirty-day response period which expired on April 23, 2010, or as of the date of this Order.

DISCUSSION

The appropriate standard for analyzing an application for a certificate to provide competing local exchange service under the Telecommunications Act of 1996 (Act), 47 U.S.C. § 151, et seq., is whether the Applicant has demonstrated that it has the technical, financial and managerial ability to provide local service. In this proceeding, the Commission concludes that All American has satisfied this standard and, concomitantly, has satisfied the requirements for the issuance of a certificate to provide interexchange services.

FINDINGS OF FACT

1. On January 22, 2010, All American filed an application for a certificate of convenience and necessity to provide resold and facilities-based local exchange and interexchange telecommunications services throughout the State of West Virginia.
2. On February 18, 2010, All American filed, pursuant to a Staff request, revisions to its proposed WV P.S.C. Tariff No. 1 and WV P.S.C. Tariff No. 2.
3. All American gave notice of the filing of its application to operate as a facilities-based and resold local exchange and interexchange telecommunications services provider in accordance with the Commission's requirements, making statewide publication in nineteen designated cities in West Virginia.
4. No protests were received to the application within the thirty-day response period, which expired on April 23, 2010, or as of the date of this Order.
5. Staff recommended that the application of All American, as revised on February 18, 2010, for a certificate of convenience and necessity to provide facilities-based and resold local exchange and interexchange telecommunications services in West Virginia be granted, without a formal hearing.

CONCLUSION OF LAW

All American has demonstrated that it has the technical, financial and managerial ability to provide resold and facilities-based local exchange telecommunications services in West Virginia and, concomitantly, has satisfied the requirements for the issuance of a certificate to provide interexchange service, and it is reasonable and appropriate to grant a certificate of convenience and necessity to All American to provide such services.

ORDER

IT IS, THEREFORE, ORDERED that the application filed on January 22, 2010, by Everycall Communications, Inc., dba Local USA, dba All American Home Phone, for a certificate of convenience and necessity to provide facilities-based and resold local exchange and interexchange telecommunications services throughout the State of West Virginia, be, and hereby is, approved.

IT IS FURTHER ORDERED that the authority hereby granted and approved does not constitute approval to construct specific facilities for the provision of telecommunications service and that, in the event Everycall Communications, Inc., dba Local USA, dba All American Home Phone develops a plan for constructing facilities for the provision of telecommunications services in West Virginia in the future, it must provide the Commission with complete details thereof and obtain Commission consent and approval thereof prior to construction.

IT IS FURTHER ORDERED that the above restriction on construction of facilities does not apply to leasing unbundled network elements or the installation of equipment with transmission capabilities or switching or routing functionality solely within a central office or point of presence owned by the telecommunications provider or another party.

IT IS FURTHER ORDERED that the revised rates and charges for the provision of interexchange telecommunications services be, and hereby are, approved for the provision of such services.

IT IS FURTHER ORDERED that Everycall Communications, Inc., dba Local USA, dba All American Home Phone, file with the Commission tariff office an original and at least six copies of a proper tariff for the provision of interexchange services reflecting the rates approved herein within thirty days of the date that this Order becomes final.

IT IS FURTHER ORDERED that Everycall Communications, Inc., dba Local USA, dba All American Home Phone, cannot offer local service to the public unless and until it has filed for and received Commission approval of a tariff and underlying interconnection agreements.

IT IS FURTHER ORDERED that local service tariffs, as proposed by Everycall Communications, Inc., dba Local USA, dba All American Home Phone, shall be filed with the Commission at least thirty (30) days prior to the date Everycall Communications, Inc., dba Local USA, dba All American Home Phone, intends to commence providing local service and shall contain, at a minimum, the following information: (i) an accurate description of the services offered; (ii) a statement of the terms and conditions of service; (iii) a statement listing the rates and charges for such service; (iv) a description of the areas to be served, by exchange; and (v) a statement explaining customers' rights and responsibilities.

IT IS FURTHER ORDERED that Everycall Communications, Inc., dba Local USA, dba All American Home Phone, shall comply with all properly promulgated federal or state laws and regulations governing the provision of competing local exchange telecommunication services.

IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery.

A True Copy, Teste:


Sandra Squire
Executive Secretary

LHG/lld
100056c.wpd

chapter shall be prescribed by the commission (except as provided in section five, article three of this chapter). The commission shall collect, receive and preserve the same, and shall annually tabulate and publish the same in statistical form.

§24-2-10. Power to subpoena witnesses, take testimony and administer oaths; contempt; self-incrimination.

The commission shall have power, either as a commission or by any of its members, to subpoena witnesses and take testimony, and administer oaths to any witness in any proceeding or examination instituted before it or conducted by it with reference to any matter within its jurisdiction. In all hearings or proceedings before the commission the evidence of witnesses and the production of documentary evidence may be required at any designated place of hearing; and in case of disobedience to a subpoena or other process the commission or any party to the proceedings before the commission may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of papers, books and documents. And such court, in case of refusal to obey the subpoena issued to any person or to any public utility subject to the provisions of this chapter, shall issue an order requiring such public utility or any person to appear before such commission and produce all books and papers, if so ordered, and give evidence touching the matter in question. Any failure to obey such order of the court may be punished by such court as contempt thereof. A claim that any such testimony or evidence may tend to criminate the person giving the same shall not excuse such witness from testifying, but such witness shall not be prosecuted for any offense concerning which he is compelled hereunder to testify.

§24-2-11. Requirements for certificate of public convenience and necessity.

(a) A public utility, person or corporation may not begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in section one, article two of this chapter, nor apply for, nor obtain any franchise, license or permit from any municipality or other governmental agency, except ordinary extensions of existing systems in the usual course of business, unless and until it shall obtain from the Public Service Commission a certificate of public convenience and necessity authorizing such construction franchise, license or permit.

(b) Upon the filing of any application for the certificate, and after hearing, the commission may, in its discretion, issue or refuse to issue, or issue in part and refuse in part, the certificate of convenience and necessity: *Provided*, That the commission, after it gives proper notice and if no substantial protest is received within thirty days after the notice is given, may waive formal hearing on the application. Notice shall be given by publication which shall state that a formal hearing may be waived in the absence of substantial protest, made within thirty days, to the application. The notice shall be published as a

Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the proposed area of operation.

(c) Any public utility, person or corporation subject to the provisions of this section shall give the commission at least thirty days' notice of the filing of any the application for a certificate of public convenience and necessity under this section: *Provided*, That the commission may modify or waive the thirty-day notice requirement and shall waive the thirty-day notice requirement for projects approved by the Infrastructure and Jobs Development Council.

(d) The commission shall render its final decision on any application filed under the provisions of this section or section eleven-a of this article within two hundred seventy days of the filing of the application and within ninety days after final submission of any such application for decision following a hearing: *Provided*, That if the application is for authority to construct a water and sewer project and the projected total cost is less than \$10 million, the Commission shall render its final decision within two hundred twenty-five days of the filing of the application.

(e) The commission shall render its final decision on any application filed under the provisions of this section that has received the approval of the Infrastructure and Jobs Development Council pursuant to article fifteen-a, chapter thirty-one of this code within one hundred eighty days after filing of the application: *Provided*, That if a substantial protest is received within thirty days after the notice is provided pursuant to subsection (b) of this section, the commission shall render its final decision within two hundred seventy days or two hundred twenty-five days of the filing of the application, whichever is applicable as determined in subsection (d).

(f) If the projected total cost of a project which is the

subject of an application filed pursuant to this section or section eleven-a of this article is greater than \$50 million, the commission shall render its final decision on any such application filed under the provisions of this section or section eleven-a of this article within four hundred days of the filing of the application and within ninety days after final submission of any such application for decision after a hearing.

(g) If a decision is not rendered within the, time-frames established in this section, the commission shall issue a certificate of convenience and necessity as applied for in the application.

(h) The commission shall prescribe rules as it may deem proper for the enforcement of the provisions of this section; and, in establishing that public convenience and necessity

do exist, the burden of proof shall be upon the applicant.

(i) Pursuant to the requirements of this section, the commission may issue a certificate of public convenience and necessity to any intrastate pipeline, interstate pipeline or local distribution company for the transportation in intrastate commerce of natural gas used by any person for one or more uses, as defined by rule, by the commission in the case of:

(1) Natural gas sold by a producer, pipeline or other seller to the person; or

(2) Natural gas produced by the person.

(j) A public utility, including a public service district, which has received a certificate of public convenience and necessity after July 8, 2005, from the commission and has been approved by the Infrastructure and Jobs Development Council, is not required to, and cannot be compelled to, reopen the proceeding if the cost of the project changes but the change does not affect the rates established for the project.

(k) Any public utility, person or corporation proposing any electric power project that requires a certificate under this section is not required to obtain such certificate before applying for or obtaining any franchise, license or permit from any municipality or other governmental agency.

§24-2-11a. Requirement for certificate of public convenience and necessity before beginning construction of high voltage transmission line; contents of application; notice; hearing; criteria for granting or denying certificate; regulations.

(a) No public utility, person or corporation shall begin construction of a high voltage transmission line of two hundred thousand volts or over, which line is not an ordinary extension of an existing system in the usual course of business as defined by the public service commission, unless and until it or he shall have obtained from the public service commission a certificate of public convenience and necessity approving the construction and proposed location of such transmission line.

(b) The application for such certificate shall be in such form as the commission may prescribe and shall contain:

(1) A description, in such detail as the commission may prescribe, of the location and type of line facilities which the applicant proposes to construct;

(2) A statement justifying the need for such facilities;